

DEP File No. 85-778

Applicant: Northwest Development



COPY

Order of Conditions
Wetlands Protection Bylaw
Chapter F

From the ACTON CONSERVATION COMMISSION

Issuing Authority

To Northwest Development, LLC
(Name of person making request)

Palmer Family Realty Trust
(Name of property owner)

Address 178 Great Road, Acton, MA 01720

Address 352 Great Road, Acton, MA 01720

This Order is issued and delivered as follows:

- ☒ by hand delivery to person making request on Sharon Mendon 4/9/02 (date)
- ☐ by certified mail, return receipt requested on _____ (date)

This project is located at 352 Great Road (Town Atlas Plate D-4, Parcels 2, 4, 7, 10, 16 & 17)

The property is recorded at the Registry of Middlesex South

Book 574

Page 71

Certificate (if registered) _____

The Notice of Intent for this project was filed on December 10, 2001 (date)

The public hearing was closed on March 20, 2002 (date)

Findings

The ACTON CONSERVATION COMMISSION has reviewed the above-referenced Notice of Intent and plans and has held a public hearing on the project. Based on the information available to the ACTON CONSERVATION COMMISSION at this time, the ACTON CONSERVATION COMMISSION has determined that the area on which the proposed work is to be done is significant to the following interests in accordance with the Presumptions of Significance set forth in the regulations for each Area Subject to Protection under the Act (check as appropriate):

- ☒ Public water supply
☒ Private water supply
☒ Ground water supply

- ☒ Flood Control
☒ Storm damage prevention
☒ Prevention of pollution

- ☐ Land containing shellfish
☒ Fisheries
☒ Protection of Wildlife Habitat

Total filing fee submitted under Acton Wetlands Protection Bylaw \$ 2,735.00

Therefore, the ACTON CONSERVATION COMMISSION hereby finds that the following conditions are necessary, in accordance with the Performance Standards set forth in the regulations, to protect those interests checked above. The ACTON CONSERVATION COMMISSION orders that all the work shall be performed in accordance with the said conditions and with the Notice of Intent references above. To the extent that the following conditions modify or differ from the plans, specifications or other proposals submitted with the Notice of Intent, the conditions shall control.

General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state or local statutes, ordinances, bylaws or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - (a) the work is a maintenance dredging project as provided for in the Act; or
 - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill, containing no trash, refuse, rubbish or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Final order has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the ACTON CONSERVATION COMMISSION on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in the size bearing the words, "Massachusetts Department of Environmental Protection, File Number 85-778".
10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

**** PLEASE READ THE FOLLOWING GENERAL CONDITIONS REQUIRED BY THE
TOWN OF ACTON WETLANDS BYLAW ****

18. No work shall be undertaken until the Order of Conditions has been reviewed and is clearly understood by the Contractor or his agent. It is the Applicant's responsibility to see that the Contractor clearly understands all items herein.
19. This Order of Conditions shall apply to any successor in interest or successor in control.
20. Members and agents of the Conservation Commission shall have the right to enter and inspect the premises to evaluate compliance with the Order and to require the submittal of any data deemed necessary by the Commission for that evaluations.
21. All drainage facilities and related structures and equipment shall be continually operated and maintained so as to comply with this Order of Conditions. The operation and maintenance of the facilities and structures shall be on-going and will not expire at the end of one year or with the issuance of the Certificate of Compliance.
22. Any change made, or intended to be made, in the plans shall require the applicant to file a new Notice of Intent, or to inquire of the Commission, in writing, whether the change is substantial enough to require a new filing.
23. The Conservation Commission shall have the right to file this Order of Conditions in the Registry of Deeds should the applicant fail to do so within 60 days.
24. Accepted engineering and construction standards and procedures shall be followed in the completion of this project.
25. The Commission shall be notified in writing 10 days prior to the commencement of any site work. Failure to so notify the Commission shall result in the issuance of an Enforcement Order.
26. The Petitioner is advised that this Order in no way absolves him of responsibility to other property owners upon whose land he discharges water directly or indirectly.
27. Erosion control measures consisting of staked haybales unless otherwise approved by the Commission shall be installed during the first phase of construction and the Commission shall be notified of their placement and no work shall begin before inspection by the Commission.
28. Any materials collected by the erosion control measures shall be removed and properly disposed of.
29. All work shall be completed as quickly as possible to minimize the duration of exposure of disturbed areas. If work is suspended for a significant period of time (i.e. as during winter months), then temporary stabilization methods must be employed and maintained during the period of inactivity.
30. No salt or other deicing chemicals shall be used on roadways and parking areas on the site.
31. This order applies only to the work described in the Notice of Intent and shown on the plans referenced in Condition 12. A Determination of Applicability Form must be filed for any additional work on site in areas governed by the Town of Acton Wetlands Protection Bylaw.
32. All disturbed areas shall be top soiled six inches and seeded.
33. Violation of any condition of this Order may result in the issuance of an Enforcement Order. Such Enforcement Order, if issued, will require the immediate cessation of all work until a hearing is held; such hearing will be held not more than 10 days from the issuance of the Enforcement Order.

34. The work authorized hereunder by the Acton Wetlands Protection Bylaw shall be completed within three years from the date of this Order unless the Order is renewed prior to expiration.
35. A twenty-five (25) foot setback of natural vegetation shall be maintained up-gradient from the wetland and except where a waiver has been granted under the Order of Conditions.
36. No construction, either temporary or permanent shall occur within forty (40) feet of the edge of wetlands. This shall include driveways; roadways; residential, commercial or industrial structures, etc. except where a waiver has been granted under the Order of Conditions.
37. There shall be no use of fertilizers, pesticides, herbicides or chemicals of any kind within the forty (40) foot no construction zone except where a waiver has been granted under the Order of Conditions.
38. There shall be no underground storage of gasoline, oil or other fuels or hazardous materials within the one-hundred (100) foot buffer zone.
39. The Commission reserves the right to impose additional conditions to mitigate any actual or potential impacts resulting from the permitted work.
40. The work shall conform to the following plans and special conditions:

PLANS:

Title	Dated	Signed and Stamped by:	on file with:
Quail Ridge Country Club NOI Submittal Set	REV.3/1/02	Ian Rubin, Civil # 33758	Acton Conservation

SEE ATTACHED DOCUMENT SUPPLEMENTAL LIST

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**SEE ATTACHED DOCUMENTS FOR
FINDINGS
AND SPECIAL CONDITIONS**

Issued by the

ACTON

Conservation Commission

Signature(s)

Terence Phelan
John P. Pomeroy
Barbara J. Epstein

This Order must be signed by a majority of the Acton Conservation Commission.

On this 14th day of April, 2002, before me personally

appeared Barbara J. Epstein to me known to be the person described in, and who executed, the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

Andree M. Rustine
Notary Public

February 27, 2009
My Commission Expires

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land upon which the proposed work is to be done, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the Department of Environmental Protection to issue a Superseding Order, providing the request is made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form as provided in 310 CMR 10.03(7) within ten days from the date of issuance of this determination. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and the applicant.

Detach on dotted line and submit to the ACTON CONSERVATION COMMISSION prior to commencement of work.

To ACTON CONSERVATION COMMISSION Issuing Authority

Please be advised that the Order of Conditions for the project at 352 Great Road, Acton (Quail Ridge Country Club)

File Number 85-778 has been recorded at the Registry of Middlesex South and

has been noted in the chain of title of the affected property in accordance with General Condition 8 on 19

If recorded land, the instrument number which identifies this transaction is _____

If registered land, the document number which identifies this transaction is _____

Signature _____ Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

A. General Information

From:

ACTON

Conservation Commission

This issuance is for (check one):

☒ Order of Conditions

☐ Amended Order of Conditions

To: Applicant:

Northwest Development, LLC

Name

178 Great Road

Mailing Address

Acton

MA

01720

City/Town

State

Zip Code

Property Owner (if different from applicant):

Palmer Family Realty Trust

Name

352 Great Road

Mailing Address

Acton

Ma

01720

City/Town

State

Zip Code

1. Project Location:

352 Great Road

Street Address

D-4

Assessors Map/Plat Number

Acton

City/Town

2, 4, 7, 10, 16 & 17

Parcel/Lot Number

2. Property recorded at the Registry of Deeds for:

Middlesex South

County

574

Book

71

Page

Certificate (if registered land)

3. Dates:

December 10, 2001

Date Notice of Intent Filed

March 20, 2002

Date Public Hearing Closed

April 9, 2002

Date of Issuance

4. Final Approved Plans and Other Documents (attach additional plan references as needed):

See Document Submittal List.

Title

Date

5. Final Plans and Documents Signed and Stamped by:

Ian Rubin, Civil # 33758, Acton Survey & Engineering, Inc.

Name

6. Total Fee:

\$ 13,675.00

(from Appendix B: Wetland Fee Transmittal Form)



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

B. Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act. Check all that apply:

- | | | |
|----------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Public Water Supply | <input type="checkbox"/> Land Containing Shellfish | <input checked="" type="checkbox"/> Prevention of Pollution |
| <input checked="" type="checkbox"/> Private Water Supply | <input checked="" type="checkbox"/> Fisheries | <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| <input checked="" type="checkbox"/> Groundwater Supply | <input checked="" type="checkbox"/> Storm Damage Prevention | <input checked="" type="checkbox"/> Flood Control |

Furthermore, this Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- ☒ the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. This Commission orders that work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

Denied because:

- ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).

General Conditions (only applicable to approved projects)

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

B. Findings (cont.)

4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the Issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
7. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order which form must be stamped by the Registry of Deeds, prior to the commencement of work.
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words:

"Massachusetts Department of Environmental Protection" [or, "MA DEP"]

"File Number 85-778"

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before DEP.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the plans and special conditions referenced in this order.
13. Any change to the plans identified in Condition #12 above shall require the applicant to inquire the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
14. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable times to evaluate compliance with the conditions stated in this Order, and may require the submittal of data deemed necessary by the Conservation Commission or Department for that evaluation.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

B. Findings (cont.)

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention control if it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

Special Conditions (use additional paper, if necessary):

See document for Special Conditions

Findings as to municipal bylaw or ordinance

Furthermore, the Acton hereby finds (check one that applies):
Conservation Commission

- ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw specifically:

Name _____ Municipal Ordinance or Bylaw _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw specifically:

Chapter F—Wetland Protection

Acton Town Bylaws

Name _____

Municipal Ordinance or Bylaw _____

The Commission orders that all work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

B. Findings (cont.)

Additional conditions relating to municipal ordinance or bylaw:

See attached listing and variance approvals

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Date

April 9, 2002

This Order must be signed by a majority of the Conservation Commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office (see Appendix A) and the property owner (if different from applicant).

Signatures:

[Signature]
[Signature]
[Signature]
[Signature]

On

Day

4th

Of

Month and Year

April, 2002

before me personally appeared

Barbara J. Posten

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

[Signature]
Notary Public

February 27, 2009

My Commission Expires

This Order is issued to the applicant as follows:

☒ by hand delivery on

Date

4/9/02 *[Signature]*

☐ by certified mail, return receipt requested

Date



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778
Provided by DEP

C. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Appendix E: Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

D. Recording Information

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 7 of Form 5 shall be submitted to the Conservation Commission listed below.

ACTON

Conservation Commission



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number:

85-778

Provided by DEP

D. Recording Information (cont.)

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

ACTON

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

352 Great Road, Acton
Project Location

85-778
DEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex South
County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

**QUAIL RIDGE COUNTRY CLUB
352 GREAT ROAD**

NOTICE OF INTENT SUBMISSION MATERIALS

The information, representations, and commitments made in the following documents submitted as part of the Notice of Intent for the proposed project are hereby made part of this Order. Any changes to these materials, or the commitments made therein, will require a filing with the Commission and issuance of a new or amended Order for the project.

The Applicant made the following submissions to the Commission in the Notice of Intent and during the Public Hearing on the Notice of Intent. These documents are on file at the Acton Conservation Commission and Planning Board offices. These submissions constitute the basis upon which the Commission issued the Findings and Order:

Notice of Intent:

Dated 12/7/01 (Received 12/10/01), prepared by Epsilon Associates

Site Visits:

Commission Members', Agent's, and Consultant's observations made during site visits on April 9 and 23 2001, October 23 and 26, 2001, November 2, 8, 9 and 27, 2001, December 18, 2001, March 8 and 11, 2002

Project Plans:

- Cover Sheet Existing Conditions Plan (sheet 1 of 7), dated 12/01, revised 3/1/02
- Existing Conditions Plan (sheet 2 of 7), dated 12/01, revised 3/1/02
- Existing Conditions Plan (sheet 3 of 7), dated 12/01, revised 3/1/02
- Existing Conditions Plan (sheet 4 of 7), dated 12/01
- Existing Conditions Plan (sheet 5 of 7), dated 12/01
- Existing Conditions Plan (sheet 6 of 7), dated 12/01, revised 3/1/02
- Existing Conditions Plan (sheet 7 of 7), dated 12/01
- Cover Sheet Site Development Plan (sheet 1 of 7), dated 12/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 2 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 3 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 4 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 5 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 6 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Proposed Conditions Plan (sheet 7 of 7), dated 1/01, revised 1/11/02, 2/21/02
- Detail Sheet (sheet 1 of 3), dated 12/01, revised 2/21/02
- Detail Sheet (sheet 2 of 3), dated 12/01, revised 2/21/02
- Detail Sheet (sheet 3 of 3), dated 12/01, revised 2/21/02, 3/1/02
- Erosion & Sedimentation Control Plan (sheet 1 of 1), dated 2/21/02
- Automatic Irrigation System Plan IR-1 (sheet 1 of 2), dated 11/23/01
- Automatic Irrigation System Plan IR-1 (sheet 2 of 2), dated 11/23/01
- Grassing Plan (sheet 1 of 1), dated 3/1/02
- ENF Routing Plan (sheet 1 of 1), dated 5/01

Supplemental Materials:

1. Quail Ridge Country Club, Draft Environmental Impact Report EOE#12503. November 15, 2001. Prepared by Epsilon Associates, Inc., received 11/16/01.
2. Letter from Division of Fisheries & Wildlife December 12, 2001 received 12/17/01.
3. Quail Ridge Country Club, Drainage Report & Stormwater Management Report. December 14, 2001; revised February 5, 2002. Prepared by Acton Survey & Engineering, Inc.
4. Quail Ridge Country Club, Final Environmental Impact Report EOE#12503. February 15, 2002. Prepared by Epsilon Associates, Inc., received 11/19/02.
5. Facsimile from Epsilon Associates, Inc., RE: monitoring wells January 8, 2002.
6. Letter from GeoSyntec Consultants, RE: IPM Plan January 10, 2002.
7. Letter from Epsilon Associates, Inc., RE: supplemental information January 10, 2002.
8. Certificate of the Secretary of Environmental Affairs in the Draft EIR December 31, 2001 received 1/16/02.
9. Turfgrass and Integrated Pest Management (IPM) Plan for Quail Ridge Country Club. February 11, 2002. Prepared by Cornish, Silva, and Mungeam, Inc.
10. Integrated Pest Management (IPM) at Quail Ridge Country Club - overview of IPM Plan received January 16, 2002.
11. Resume: John J. Bresnahan received January 16, 2002.
12. Letter to the Board of Selectmen from Acton Citizens for Environmental Safety January 28, 2002.
13. Letter to the Acton ConCom from NorthWest Development LLC February 4, 2002.
14. Letter to the Acton ConCom from Turfgrass Environmental Consultants February 6, 2002.
15. Letter to Town of Acton from NorthWest Development LLC February 7, 2002.
16. Additional Information Requested for Quail Ridge (Quail Ridge Consultant Questions) received February 11, 2002.
17. Letter of response - Supplemental Notice of Intent Information #2, QRCC March 1, 2002.
18. Facsimile from Epsilon Associates regarding revised fees.
19. Overstory Clearing (>5,000 sf) for Golf Courses. White Paper by Mass Audubon Society. Received March 6, 2002.
20. Estimated Irrigation System Water Use Calculations for Quail Ridge Country Club. March 11, 2002. Prepared by Turf Products Corporation.
21. Open Letter to the Town of Acton from Acorn Park residents received March 11, 2002.
22. Memorandum from Tory Fletcher, Epsilon Associates, Inc., to Mike Toohill and Acton ConCom Re: Well BE-2 Pump Test Discharge Water March 12, 2002.
23. Memo from Turfgrass Environmental Consulting to Ron Peabody Re: Water Quality Monitoring Plan March 12, 2002 received March 14, 2002.
24. Pesticide List for Quail Ridge GC. March 13, 2002. Prepared by Turfgrass Environmental Consulting.
25. Quail Ridge Country Club Pre- vs. Post-development Effects on Wetlands. March 14, 2002. Prepared by Acton Surveying and Engineering, Inc.
26. Interdepartmental Communication to Planning Board from J. Deming Water District Manager.
27. Interdepartmental Communication to Roland Bartl, 3/11/02 from Dean Charter Re: Landscape review received March 18, 2002.
28. Letter from Dr. & Mrs. Giles H. Forman of 16 Walnut Street to the Selectmen, Planning and Conservation Commission.
29. Letter to the Acton ConCom from Chris Starr March 20, 2002.
30. Quail Ridge CC 10th Hole Revision sketch from Cornish, Silva & Mungeam March 20, 2002.

31. Memo to Ron Peabody from Turfgrass Environmental Consulting re irrigation withdrawals from four other courses. March 20, 2002
32. QRCC – Areas Developed with Wetland Buffer Zones prepared by Acton Survey & Engineering March 20, 2002
33. Quail Ridge Country Club, Water Balance Calculations Revisited, revised March 20, 2002, prepared by Acton Survey & Engineering, Inc.
34. Cross Section Elevation Sketches for height of clearing for shrub layer in wetlands March 20, 2002
35. Letter from Epsilon Associates, Inc. to Acton ConCom – Supplemental Information – QRCC March 20, 2002
36. Letter from QRCC, Ron Peabody March 22, 2002
37. DEP – Notification of Wetlands Protection Act File Number – 85-778 February 28, 2002 received March 26, 2002

**QUAIL RIDGE COUNTRY CLUB
352 GREAT ROAD
DEP FILE NO. 85-778**

PROJECT SUMMARY

The project for which this Order of Conditions (Order) applies is an eighteen-hole private golf course, clubhouse, maintenance, and appurtenant facilities located on approximately 154 acres of land off Skyline Drive. The site is located northwest of the intersection of Route 27 and Route 2A, and downstream of the spillway of Nagog Pond. Nagog Brook traverses the site from northwest to southeast, and the confluence of Nagog Brook (determined to be intermittent) and Wills Hole Brook (determined to be perennial) is in the southeast quadrant of the site.

The land has been subjected to forestry operations for the past several decades, and contains an easement of the Concord Water Department for a pipeline conveying treated potable water from Nagog Pond to the Town of Concord. The land was the subject of two separate Orders of Resource Area Delineation dated May 11, 2001 (Riverfront determination) and November 29th, 2001 (other resource areas). Those Orders and this document constitute one complete set of Conditions for the construction, operation, and maintenance of the facility. The Applicant should become familiar with all three Orders before proceeding.

The Commission has considered the evidence, testimony, documents and plans before it in the above-referenced matter and hereby approves the project subject to the following findings and conditions related to this matter, in supplement to those set forth within the Order itself:

FINDINGS OF THE COMMISSION

I. Proposed Activities

Proposed activities on this site will alter resource areas as identified in Wetland Protection Act (WPA) at 310 CMR 10.02(1) and (2), and in the Town of Acton Bylaw (the Bylaw) at F3.3, F3.4, and F3.18. Proposed activities have the potential to affect the interests protected under 310 CMR 10.01(2) of the WPA and Section F1 of the Bylaw.

II. Resource/Impact Identification

Onsite resource areas include the following: freshwater wetlands consisting of bordering vegetated wetlands and isolated wetlands, vernal pools, intermittent streams, perennial streams, buffer zone land within 100 feet of those resources; all as depicted on the ANRAD, previously filed for this site and on plans filed for this site for the current project, as revised with the exception of a vernal pool found near BVW Flag L96, the location of which is shown on the project plans.

- A. The interests to be protected under the Bylaw and/or WPA, and site activities potentially affecting those interests, are as follow:

- 1) public or private water supply (due to onsite wells for course irrigation and course turfgrass and pest management practices that could impact downstream public water supplies);
- 2) groundwater or surface water (due to construction activities and course turfgrass and pest management practices that could impact onsite and downstream resources);
- 3) flood control (due to altered stormwater runoff patterns and infiltration and uptake capacities through removal of vegetative cover, and installation of stormwater management control devices sized to certain events);
- 4) erosion or sedimentation control (due to grading and construction activities and stormwater management alterations);
- 5) storm damage prevention (due to grading and construction activities and stormwater management alterations);
- 6) water quality (due to grading and construction activities, and course turfgrass and pest management practices, that could impact onsite and downstream resources);
- 7) water pollution prevention (due to grading and construction activities resulting in sedimentation, installation of stormwater management control devices and components, course turfgrass and pest management activities, and installation of onsite septic system);
- 8) fisheries (as a function of possible downstream impacts to proximate resources from course turfgrass and pest management practices);
- 9) wildlife habitat (due to grading and construction activities, loss of vegetative cover and food sources, loss of canopy in freshwater wetlands (BVW) and Buffer Zones, intrusions into wooded areas formerly more remote and undisturbed through human presence and play, as well as machinery for maintenance of play areas, installation of boardwalks and carpaths with resulting golfcart and pedestrian uses, loss of standing deadwood for both shelter and food sources, loss of shading which results in increases in ground and water temperatures, loss of leaf litter for cover and food sources, and loss of extensive upland habitat beyond the protected zones around vernal pools).

B. The following specific regulatory alterations may occur onsite within jurisdictional areas (Bylaw Section F3.4; and/or WPA 310 CMR 10.04, Definitions: "Alter"):

- 1) removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind (due to site grading);
- 2) changing of pre-existing drainage characteristics, flushing characteristics, sedimentation patterns, flow patterns, or flood retention characteristics (due to site grading, vegetative changes, and stormwater control measures);
- 3) drainage or other disturbances (due to pumping of groundwater from irrigation wells) of water levels or water table;
- 4) dumping, discharging or filling any material which may degrade water quality (this provision is applicable insofar as there is a possibility of discharging of chemicals during course operations which may degrade water quality, creating impacts related to course turfgrass and pest management practices);
- 5) placing of fill or removal of material which would alter elevation (due to construction grading activities);

- 6) driving of piles, erecting of buildings, or structures of any kind (due to boardwalks, construction of stormwater management components, and well borings);
- 7) placing of obstructions whether or not they interfere with the flow of water (due to installation of drainage pipes, bridges, headwalls, or other structures);
- 8) destruction of plant life including removal of all mature trees from 2.2 acres more or less of fresh water wetlands/BVW and 2.5 acres of buffer zone thereto which may significantly impact the interests protected by the Bylaw (due to Buffer Zone disturbances and canopy removal to create overplay areas, direct play areas or grading for play areas and due to BVW disturbances and canopy removal to create overplay areas and boardwalks);
- 9) changing water temperature, biochemical oxygen demand, or other physical or chemical characteristics of water (due to overstory canopy removal in both Buffer Zones and BVW resource areas and due to possible future impacts related to course turfgrass and pest management practices);
- 10) any activities, changes or work which may cause or tend to contribute to pollution/sedimentation of any resource area under the jurisdiction of the Commission from future construction activities on the Site or due to possible nutrient loading or other impacts from course turfgrass and pest management practices; and
- 11) application of pesticides and/or herbicides.

III. Reasons for Detailed Substantive Order of Conditions

- A. Highly intrusive construction activities will occur for golf play areas in close proximity to wetlands systems and features including vernal pools. That work is likely to influence the normal functioning of those resources due to the amount, frequency and nature of anticipated activities. The Commission is convinced that the project requires rigorous review and oversight with long-term controls. Further support for an enhanced detailed Order arises in the following ways:
- 1) there are significant vernal pools on the site which need to be protected and not all of them were initially identified by the Applicant which resulted in substantial additional concern of the Commission for the project impacts and which required project revisions during the public hearing process; and
 - 2) the Applicant did not adequately address the Commission's concerns regarding wildlife habitat; and
 - 3) changes in land activity on this site could impact Wills Hole Brook, a proximate perennial stream of high water and resource quality in the watershed of this site; and
 - 4) this site is adjacent to, and shares important forested wetland and forested upland resources with Town Conservation Land, Department of Fish and Wildlife Lands, and Town of Acton Water Supply Protection Lands, Town of Concord Water Supply Protection Lands, important regional resources of very high value; and
 - 5) this site plays an integral role in established forested resources which have value for habitat, wildlife corridors for migration, and food sources; and

- 6) this site has rural character and views which are important to the nature and scenic quality of this area of Town; and
- 7) the Applicant has required the public hearing be closed without having adequately addressed certain key elements of significant concern to the Commission, notably the pump test impact potential on adjacent resource areas, long-term water withdrawal impact potential on adjacent resource areas, impact mitigation resolution, and course operation site-specific plans, arguing that those should be dealt with through conditions subsequent.

IV. Proposed Activities in BVW and Buffer Zones as Impacts

The nature, location and extent of the proposed activities in various Buffer Zone areas are impacts to protected resource areas and are significant to the protection of the interests stated in Section II of these Findings above, pursuant to the Bylaw, Section F1.

The nature, location and extent of the proposed activities in various fresh water wetlands/BVW areas are impacts to protected resource areas and are significant to the protection of the interests stated in Section II findings above, pursuant to the Bylaw, Section F1.

The proposed activities include: clearing, grading, excavating, filling, planting, building upon and applying chemicals to areas under the Commission's jurisdiction in order to construct course features and play areas, carpaths, boardwalks, bridges and utilities installations, drainage structures and features, play-across areas in BVW and Buffer Zone resource areas, and otherwise altering such resources under the Bylaw and resources and buffer zones under the WPA. These activities are presumed to have an impact on adjacent wetlands and buffer zones, and upon directly impacted wetlands and buffer zones. The Applicant has failed to overcome this presumption.

The Commission has reviewed and considered the short-term, long-term and cumulative effects and impacts of the project activities proximate to adjacent resource areas, and where applicable, directly upon resource areas (such as in canopy removal in fresh water wetlands/BVWs and canopy removal and other disturbances in Buffer Zones under the Bylaw and under the WPA, to create play areas and boardwalks) and finds that those impacts are substantial and require appropriate mitigation.

The Commission finds that the cutting of overstory within wetlands constitutes an alteration to the resource area, but does not constitute either a loss or an impairment that leads to a loss of the resource area. Therefore the Commission issues this Order of Conditions in conformance with 310 CMR 10.53(3), 10.54(4)(a), and 10.54(4)(b). The Commission does not find that overstory cutting is impermissible on the facts of this case, but does find under both the state law and the Bylaw that it is a direct impact to resources which cannot be mitigated onsite due to site size constraints and so needs to be accounted for offsite, as discussed below.

V. Waiver Requests to Alter No Disturb, No-Build and Chemical Free Resource Areas established under the Bylaw

The Applicant has requested waivers pursuant to Section F4.6 of the Bylaw. The Commission finds that those requests are allowable only if such actions are in the public interest and are

consistent with the intent and purpose of the Bylaw. The waivers are conditionally granted in accordance with this finding and subject to Applicant providing additional public benefits. Additional public benefits are being required by the Commission as set forth in the Special Conditions in amounts and manners sufficient to adequately address its concerns and to protect the interests of the Bylaw and WPA discussed in these findings.

The Applicant has requested 28 waivers of the Acton Wetland Bylaw's requirements as detailed in the Supplemental Notice of Intent Table #2 and the plan titled QRCC 10th Hole Revision (3/20/02). Specifically, the Applicant has requested waivers to build structures (boardwalks, lined detention basins) to perform grading operations for an irrigation pond, to apply chemicals, and to reconstruct the existing roadway within the wetlands, associated BVW and/or 25 foot no disturbance zones; for overstory cutting in 9 areas within the wetlands/associated BVW (2.1 acres) and adjoining 25 foot no disturbance buffer areas (2.5 acres) totaling approximately 4.6 acres of overstory removal within resource areas, plus additional overstory clearing within a vernal pool buffer area, the total area of which has not yet been calculated; and to build structures (tee boxes/retaining walls, boardwalks, lined detention basins), to reconstruct the existing roadway, and to apply chemicals in the 40 foot no-structure, chemical free buffer zone.

The Commission finds that loss of overstory/canopy will at least temporarily reduce shading of wetlands and buffer zones with resultant changes in growth of sub-story vegetation (including growth of invasive species), hydrology, and soil temperature, at least until compensatory understory planting success is achieved. Additionally the applicant proposes to permanently alter several areas of the 25 foot no-disturbance zone by overstory cutting without any replacement of the mature canopy with native shrubs, but by planting turf grasses for golf course playability purposes. Absent information in the record to the contrary, which has not been submitted by the Applicant, the Commission finds these activities to be regulatory alterations under the Bylaw because such destruction of plant life and cutting of trees will significantly impact the interests protected by the Bylaw.

The Commission further finds that lost high canopy has far-reaching habitat, breeding, migratory, leaf-litter production, food source, and shading characteristics, values and influences which are not replaceable at this site, including not replaceable simply by planting low canopy species in limited Buffer Zone or BVW areas as has been proposed by the Applicant. The Commission also specifically finds that lost high canopy in BVW is of distinct value to these wetlands on this site and to its species and cannot be mitigated by any proposed onsite mitigation advanced for Commission consideration in this project. The aspect of such extensive loss of high canopy in resource areas has not previously been dealt with in Acton in a project of such magnitude.

The Applicant will cause the removal of most of the managed forest that exists on upland areas of the Site prior to the project. With the exception of the developed areas surrounding the Palmer Kennels, the Site uplands were generally covered with a white pine and red maple forest canopy. These actions will remove a significant portion of the overstory canopy benefits and habitat available to wildlife on the Site. In these areas the prior forest will be replaced by golf course greens, fairways and "rough" grasses, by cart paths, by a clubhouse, swimming pool and tennis courts, and by parking lots and roadways. The remaining upland forest on the Site will be fragmented. Therefore, the importance of that remaining forest canopy is substantially increased and the need for mitigation for loss of any of it increases accordingly.

- A. The Commission finds that to allow such waivers the Applicant must comply with Section F4.6 of the Bylaw. As stated during the hearing process the Applicant has offered the following as public benefits:
- 1) The Town of Acton has repeatedly demonstrated its support for golf course development through a series of public hearings and Town Meeting votes modifying local zoning to allow golf course development in residential districts through a Special Permitting process.
 - 2) Overall, the golf course would provide greater benefits and fewer detrimental impacts to the Town as a whole as compared with other potential development alternatives (specifically residential development).
 - 3) Access to the public for cross-country skiing and hiking during the off-season will be permitted.
 - 4) The Acton-Boxborough Regional High School golf team will be permitted to practice at the course and utilize Quail Ridge as a "home course" during interscholastic play.
 - 5) The Town would be permitted to use the golf course facilities twice annually for fundraising events.
 - 6) The applicant has also offered to provide mitigation on site for the proposed alterations.

The Commission, although accepting that the Applicant has identified and proposed certain public benefits, finds that the benefits proposed by the Applicant are not significant enough to offset the extensive proposed wetland alterations and the permanent impacts which will result. The Commission thus finds that the Applicant has not met its burden under Section F4.6 of the Bylaw to justify the requested waivers as being in the public interest and as being consistent with the intent and purpose of the Bylaw. The Commission has, therefore, drafted a Special Condition to address this issue.

The Commission has found above that resource areas on-Site are significant to the interests of the WPA and the Bylaw and that overstory removal of canopy within both BVW/Vegetated Wetlands and Buffer Zones and other proposed work are alterations to resource areas as defined in Section F.4 of the Bylaw. The Bylaw does not define the particular characteristics or amount of "public benefit" which is required before the Commission may approve a waiver. Nor does the Bylaw require that such public benefits be provided on the Site itself. Therefore, the Commission is charged with fashioning appropriate conditions as are necessary to contribute to the protection of the stated interests under the Bylaw. Since the Commission has found above that the alterations are warranted so long as properly mitigated by provision of appropriate public benefits, the Commission therefore has the right and obligation to impose such conditions as it deems necessary to contribute to those protected interests, which it is doing due to offsite mitigation requirements set forth here and due to onsite mitigation and other conditions imposed in the Order to be issued and which are indistinguishable from, and integrally interwoven with, all aspects of this project.

The proposed alterations of wetlands and adjacent resource areas cannot be permitted under the Bylaw without implementation of adequate compensatory mitigation measures which enhance the public benefits associated with the project. There are no areas remaining available within the Quail Ridge property of the Applicant where suitable compensatory mitigation measures could be implemented, taking account of the extent and nature of the proposed development project. Therefore the Commission finds that the Applicant must

propose, obtain approvals for, and implement significant, sufficient compensatory mitigation measures which provide public benefits beyond the boundaries of the Quail Ridge property. Although the Commission has suggested in the Order appropriate additional public benefits which the Applicant might implement to support the waiver requests, the Commission has not determined the exact amount of additional public benefits required and reserves the right to approve the waiver requests contingent on Applicant's proposals to provide adequate additional public benefits.

After reviewing the adequacy of the applicant's proposals *delete this*. The Commission has determined that the Applicant should propose additional public benefits which will replace or otherwise fully compensate for the 4.6 acres of overstory removal in resource areas.

The Commission further expressly finds as a matter of fairness to other projects, and consistent with its precedent that it must require all mitigation to occur first in time or reasonably concurrently with the commencement and advancement of any other work on the project.

VI. Construction Impact Management and Control

The Commission finds that the activities proposed to construct the Project in close proximity to resource areas and within resource areas, as set forth in these findings and the Order, are extensive and complex enough to warrant close control over management and phasing of those activities, as set forth with specificity in the Special Conditions.

VII. Pump Tests, Irrigation Well Pumping and Water Level Monitoring

The Commission finds that the activities proposed to conduct pump tests and long-term water withdrawals in close proximity to resource areas and within resource areas, as set forth in these findings and the Order, are extensive and complex enough to warrant close monitoring controls over potential impacts from those activities, as set forth with specificity in the Special Conditions section of the Order dealing with water level monitoring and irrigation pump control.

VIII. Drainage and Erosion Control and Storm Water Management

The Commission finds that the activities proposed to construct the Project in close proximity to resource areas and within resource areas, as set forth in these findings and the Order, are extensive and complex enough to warrant close control over those activities to minimize potential damages to resource areas during and after construction, as set forth with specificity in the "Drainage and Erosion Control and Storm Water Management" section of the Order.

IX. Environmental Monitoring and Water Quality

The Commission finds that the activities proposed to construct the Project in close proximity to resource areas, as set forth in these findings and the Order, are extensive and complex enough to warrant control over those activities to minimize potential damages to resource areas during

and after construction in the form of erosion, environmental, and water quality monitoring, as set forth with specificity in the Special Conditions section of the Order.

X. Representations of Applicant's Site Professionals

The Commission has necessarily relied upon the accuracy of various design calculations and representations of the Applicant's several site professionals who have submitted materials and/or presentations to the Commission on aspects of the Project, and specifically conditions its findings and Order upon such representations, if and as augmented by the Commission's own professionals.

XI. Natural Resource Management Plan

The Commission finds that the Draft and Final Environmental Impact Reports, the Notice of Intent, all other submittals forwarded to the Commission during the Notice of Intent Hearing, and the submittals required by the Special Conditions constitute a Natural Resource Management Plan in compliance with the Audubon *Principles for Sustainable Resource Management*.

END OF SUPPLEMENTAL FINDINGS

**QUAIL RIDGE COUNTRY CLUB
352 GREAT ROAD
DEP FILE NO. 85-778**

COPY

GENERAL SPECIAL CONDITIONS

41. This Order shall apply to any entity in control or successor in interest of the property described in the Notice of Intent and accompanying plans. These obligations shall be expressed in covenants made part of all deeds issued to succeeding owners any portion of the property. The term "Applicant" as used in this Order shall refer to the owner, any successor in interest, or successor in control of any portion of the property referenced in the Notice of Intent, supporting documents, and this Order.
42. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that takes place prior to issuance of the Certificate of Compliance.
43. The form provided at the end of this Order shall be completed and stamped at the Registry of Deeds, after the expiration of the 10 business days appeal period provided no request for appeal has been filed with the Department of Environmental Protection (DEP). This form should be returned to the Commission in accordance with General Condition #8, and prior to the commencement of work. Any Order not recorded by the Applicant before work commences may be recorded by the Commission at the Applicant's expense.
44. The Commission designates the Conservation Administrator as its Agent with full powers to act on its behalf in administering and enforcing this Order. The term "Commission" as it is used in this Order includes the Conservation Commission and its Agent.
45. The Commissioners, the Commission's Agent, and the Environmental Monitor reserve the right to enter and inspect the property at all reasonable times until a Certificate of Compliance is issued. Such Commissioner, Agent or Environmental Monitor may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission, its Agent or the Environmental Monitor for that evaluation. Further, work shall halt on the site if any Commissioner, its Agent or the Environmental Monitor determines that any of the work is not in compliance with this Order. Work shall not resume until the Commission is satisfied that the work will comply with the Order, and has notified the Applicant of such in writing.
46. This Order shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. The Applicant shall assure that all contractors, subcontractors, the golf course superintendent, and other personnel performing the permitted work are fully aware of this Order's terms and conditions. Each contractor, subcontractor, and golf course superintendent shall submit a

signed letter to the Commission that he/she has read and understands this Order. Thereafter, the contractor, subcontractor, and golf course superintendent will be held jointly liable for any violation of this Order resulting from failure to comply with its conditions. This condition shall run in perpetuity with the site.

47. The Applicant shall submit a sequence of construction to the Commission and the Environmental Monitor in order that appropriate monitoring of the project may take place.

48. The Applicant shall inform the Commission and the Environmental Monitor in writing of the name, address, and business telephone number of the General Contractor who will be responsible for insuring on-site compliance with this Order. The name and phone number of a contact person for off-hours emergencies shall also be provided to the Commission and the Environmental Monitor.

49. The Applicant shall notify the Commission and the Environmental Monitor a minimum of 48 hours in advance of the following work:

- a) Any work in wetlands
- b) Construction of wetland replication areas
- c) Installation of stormwater management ponds and swales

The applicant shall notify the Commission and the Environmental Monitor within 48 hours of completing the following work:

- d) Any work in wetlands
- e) Construction of wetland replication areas
- f) Installation of erosion control barriers

50. A copy of this Order, the submitted Notice of Intent, and all accompanying plans and calculations shall be on hand at the construction site at all times. The person in charge shall be familiar with and conduct work in accordance with said documents.

51. Any field changes within areas subject to Wetlands Protection Act jurisdiction found to be necessary, including compliance with directives of any other regulatory body, shall be considered as changes and shall require the prior written approval of the Commission. The Applicant shall supply copies of any changes that have been approved by the Commission to the Environmental Monitor.

52. If any problem(s) occurs during construction which affects any of the statutory interests of the Wetlands Protection Act, upon discovery, the Applicant or their representative shall notify the Commission (or its Agent) and the Environmental Monitor immediately and an immediate meeting shall be held between the Commission (or its Agent), the Environmental Monitor, the Applicant, and other concerned parties to determine the correct measures to be employed to

cure the problem(s). The Applicant shall then act to correct the problem(s) using the corrective measures agreed upon.

53. The Applicant shall apply for Basic (Bronze) Membership in the Audubon International Signature Cooperative Sanctuary Program and shall maintain membership in perpetuity or until that program ceases to exist.

PRE-CONSTRUCTION SPECIAL CONDITIONS

54. Prior to any construction activity, any missing wetland flags in areas within 100 feet of the work zone on the site shall be replaced. The Applicant shall be responsible for continuously maintaining the wetland delineation flagging on the entire site until the issuance of a Certificate of Compliance.

55. Before the commencement of construction on site, the property boundary shall be staked and flagged.

56. Prior to commencement of construction on site, the limits of resource areas to be impacted (including overstory clearings in wetlands and the 25 foot no disturb zone) and the limits of work in any replication areas shall be clearly flagged with surveyor's tape and shall remain in place during construction.

57. The Applicant shall retain at its own expense an independent, third party Environmental Monitor (Monitor) selected by the Conservation Commission. Selection of the Monitor will be reviewed with the Applicant. The Monitor shall be hired prior to beginning any construction-related activities on the site. The Monitor shall be retained for the total period of construction plus the first two years of operation. The employment or service contract with the Environmental Monitor will provide for an average of 8 to 12 hours per week during the construction period at normal reasonable rates for such work on such projects in this locale, plus reasonable expenses. The allotment of hours per week, if not used in any given week for reasons of slow work or other construction delays, may be carried over by the Commission for subsequent weeks where more activity is occurring. During the operational phase, the monitor should be available for a reasonable amount of time as necessary for the review of course operations and submittals from the Applicant.

The Monitor shall ensure that sedimentation controls are implemented as intended, regularly check that controls are functioning properly (particularly during and after a rain event), and inform the construction manager and the Commission of any problems encountered. The Monitor shall be copied on all correspondences that the Applicant issues to the Commission during the course of construction. Similarly, the Monitor shall copy the Applicant, the Applicant's

representative (if appropriate), the Contractor, and the Commission on all of their correspondences. The Monitor shall be responsible for the following:

- a) The Monitor shall be on-call 24 hours/day, including weekends and holidays, during the course of construction and until a Certificate of Compliance has been issued for the project.
- b) The Monitor shall attend all Conservation Commission site walks and construction meetings.
- c) The Monitor shall inspect and approve the initial installation of erosion control measures at the site. The Applicant shall submit a written request for inspection of these measures to the Monitor and the Commission and a satisfactory inspection performed before any land-disturbing activity may commence.
- d) The Monitor shall inspect the erosion control measures, any un-vegetated areas, and any areas of disturbed or exposed soils on a weekly basis and immediately after any rain event of greater than 0.5" of precipitation including any such rain events that occur on weekends.
- e) The Monitor shall inspect detention basin spillways and discharge points, and water quality swales for signs of erosion and sedimentation on a weekly basis and immediately after any rain event of greater than 0.5" of precipitation including any such rain events that occur on weekends.
- f) The Monitor shall submit monthly progress reports (including a photographic record) to the Commission and the Applicant. These reports shall detail the results of their inspections, the implementation of erosion controls to date, and any corrective measures employed.
- g) The Conservation Commission has the authority to shut down construction operations if any wetland resource area appears to be threatened by construction activities. The Monitor shall request remedial action by the Contractor for work that has not been appropriately implemented. Work being conducted at other locations on the site that is not connected to the deficient area shall be allowed to continue.
- h) Upon successful establishment of vegetative cover, the Monitor shall perform an inspection of the site. The Monitor shall submit a written report of this inspection to the Commission and the Applicant. Any outstanding or non-compliant issues that are identified during this inspection must be corrected by the Applicant and then re-inspected by the Monitor. The Monitor shall also inspect the site once a season for two complete growing seasons (April through September of a year constitutes one growing season) after completion of the project. The Applicant shall be responsible for immediately correcting any sedimentation problems that the Monitor discovers during this period. A Certificate of Compliance will not be issued until after these inspections have been performed and the Monitor submits a written report to the Commission and the Applicant confirming that no outstanding erosion control issues exist at the Site.
- i) Prior to starting work on the site, the Applicant shall notify the Commission and the Contractor that a Contract with the Monitor has been executed and provide the phone number, and either a 24-hour pager number or cell phone number of the Monitor. The Applicant shall also provide the names and numbers of other representative from the Monitor's firm who may also be performing inspection duties. Should any of this information change during the course of the project, the Applicant shall notify the Commission and the Contractor of said change. It shall be the Commission's and the Contractor's responsibility to attach this information to the Order of Conditions for reference.

- j) The Applicant shall submit all pesticide application records, water withdrawal records, drawdown monitoring records, fertilization application records, and laboratory results from the water quality monitoring program to the Monitor for review. The Monitor shall report findings on these materials to the Conservation Commission.
- k) The Monitor shall be notified of the maintenance activities in cleared wetland overstory areas prior to those activities taking place. The monitor shall meet with the golf course superintendent to review the planned maintenance activities before they occur to ensure compliance with the proposed height management guidelines. The Monitor shall report on the results of the maintenance activities to the Commission for two full years of operation of the golf course.
- l) The monitor shall check all overstory-clearing areas for the presence of invasive plant species. If invasives are present they shall be removed by hand by the Applicant under the direction of the Monitor.

58. The Applicant shall submit to the Commission for its review and approval a revised overstory management plan for the proposed clearings within BVWs, vernal pool habitat, and the 25-foot Acton Wetlands By-Law no-cut zones. The following information shall be included on the plan:

- a) The species, size (dbh diameter or caliper), and number of trees and saplings proposed for removal.
- b) The management height range proposed for the cleared area.
- c) The exact location and dimension of each clearing area including quantitative information on the extent of 25-, 40-, and 100-foot buffer zone impacts. The proposed overstory clearing areas shall be field-located and marked for inspection by the Commission and the Environmental Monitor prior to beginning any clearing activity on the site.

59. For all submittals to the Commission the Applicant shall give the Commission a minimum of 15 business days for the review of the information so that the submittals can be discussed by the Commission in a Public Meeting. Approval of submittals will be contingent upon the provision of adequate information to the Commission in a timely fashion by the Applicant.

CONSTRUCTION AND OPERATIONAL PHASES CONDITIONS

Erosion and Sedimentation Control

60. The stormwater detention basins shall be built as one of the first elements within their respective drainage areas. Detention basins shall be completed according to the design requirements, brought to finished grades, stabilized, and all the associated outlet and emergency spillway structures and devices installed, prior to the drainage system on site becoming functional.

61. Prior to the commencement of any earth moving activity within 100 feet of Wetlands Resource Areas, erosion and sedimentation control barriers shall be placed between the limits

of work and the resource areas in the locations agreed upon by the Commission. The barriers shall remain in proper functioning condition until all disturbed areas have been stabilized. Upon successful establishment of vegetative cover and with written approval from the Commission or its Agent and the Environmental Monitor, the siltation fencing and hay bales shall be removed and disposed of properly. Any accumulated sediment shall be removed.

62. Individual hay bales shall be tied with twine, placed with ends tightly abutting adjacent hay bales, and anchored in place by two wooden stakes. The first stake in each bale shall be angled toward the previously staked bale to pin the bales together. Hay bales shall be inspected daily, repaired or replaced as necessary, and remain in place until the area has been stabilized and the Commission authorizes their removal. Hay bales used on-site shall be certified by the supplier to be free of invasive species of vegetation, and a copy of the written certification from any supplier shall be provided to the Commission before their use.

63. Prior to any work within the subject area, a minimum of 100 bales of hay and 300 feet of silt fence with required stakes shall be available for immediate use to control emergency erosion situations. Any additional erosion and sedimentation controls found to be necessary by the Applicant, the Commission, or the Environmental Monitor shall be implemented by the Applicant with the approval of the Commission.

64. All final earth grading shall be permanently stabilized by the application of loam and seed, or other vegetation as specified in the project plans, except any designated paved, graveled, or wooden structure areas (driveways, cart paths).

- a) All disturbed areas will be graded, loamed and seeded not before April 30th and prior to October 15th of each year.
- b) No disturbed areas or stockpiled material will be left unprotected or without erosion controls during the winter.
- c) Loaming and seeding will occur as soon as possible after final grading.
- d) Bare soil shall be seeded if work on the project is interrupted for more than 90 days during the growing season.

65. No construction debris, trash, grubbed stumps, slash, construction materials, or other waste products from construction shall be deposited either temporarily or permanently within 100 feet of any wetland areas. At no time shall any debris, material, or equipment be placed in or enter into a wetland resource area as delineated on the above referenced plans, other than that which is allowed by this Order and is shown by the submitted Notice of Intent.

66. Dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the wetland resource areas. No discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act.

67. Drainage from tees and greens shall not be directly discharged to vegetated wetlands and watercourses. The underdrain system will be discharged into leaching basins or toward fairways and roughs.

68. The areas of construction shall remain in a stable condition at the close of each construction day. Erosion controls should be inspected at this time, and repaired, reinforced or replaced as necessary.

69. Erosion control devices shown on the project plans may be modified or augmented based upon experience at the site. All such devices shall be inspected, cleaned or replaced during construction and shall remain in place until such time as stabilization of all areas that may impact resource areas is permanent. These devices shall be inspected to assure that maximum control has been provided after any rainfall. The Commission reserves the right to impose additional conditions on portions of this project to mitigate any impacts which could result from site erosion, or any noticeable degradation of surface water quality discharging from the site. For example, installation of erosion control measures may be required in areas not shown on the plan(s) referenced in this Order. Should the Commission or its Environmental Monitor require such installation, they shall be installed within 24 hours of the Commission's request.

70. Site grading and construction shall be scheduled to avoid periods of high surface water runoff. Once begun, grading and construction shall move uninterrupted to completion to avoid erosion and siltation of the wetlands.

71. Written documentation of maintenance of the Stormwater Management system shall be provided to the Commission on an annual basis.

Hazardous And Special Materials Handling and Storage

72. There shall be no storage or dispensing of fuels or lubricants within resource areas or the 100-foot buffer zone. All routine refueling of equipment shall occur at the maintenance facility. This condition shall run in perpetuity and applies to construction, maintenance, and operations on the site.

73. There shall be no outdoors maintenance of equipment on the site. All routine equipment maintenance shall be conducted inside the proposed maintenance building. This condition shall run in perpetuity and applies to construction, maintenance, and operations on the site.

74. Any emergency equipment maintenance or refueling performed outside of the maintenance building and within 100 feet of resource areas shall be reported to the Commission within 48 hours of its occurrence. This condition shall run in perpetuity and applies to construction, maintenance, and operations on the site.

75. Accidental spills of fuel, lubricant, equipment fluids, or any other hazardous or special waste shall be contained and cleaned up in accordance with the Massachusetts Contingency Plan. All such spills shall be reported to the Commission within 48 hours of occurrence. This condition shall run in perpetuity and applies to construction, maintenance, and operations on the site.

76. If there is to be a composting area related to the golf course operation located on the site and within 100 feet of Wetlands Resource Areas, its location and design shall be submitted to the Commission for approval. This condition shall run in perpetuity with the property.

Water Quality Monitoring

77. Groundwater monitoring wells must be installed and operational prior to site grading. Clearing, as required to access the monitoring well location, is allowed.

- a) Monitoring wells shall be installed via hollow-stemmed auger technique, and be constructed of two-inch diameter, schedule 40PVC.
- b) Monitoring wells will be established with five to ten feet of slotted well screen (100 slot) situated to intercept the groundwater surface. Wells will be backfilled with clean filter sand and a bentonite seal directly below the ground surface.
- c) Wells will be installed with a minimum of disturbance, all drill cuttings removed and disposed of in a secure location outside of the Buffer Zone, and all areas of soil disturbance covered with mulch.
- d) The first round of groundwater testing shall be done before any construction commences.

78. The Applicant shall prepare and submit a surface and groundwater quality monitoring plan for the Commission's review and approval prior to the commencement of any construction activities (including clearing) on the site. This plan shall include surface water stations along Nagog and Wills Hole Brooks, and groundwater wells (piezometers or driven well-points) established down-gradient of several of the tees and greens. The golf course wells shall be shallow groundwater wells established in overburden and constructed per MADEP groundwater monitoring well installation criteria. Background (upgradient) wells and surface water stations shall also be included in the monitoring plan. The surface water and groundwater stations shall be tested prior to site clearing and construction of the golf course, quarterly for the first two years (during and following construction), and at least twice annually thereafter during operation of the golf course. Testing shall occur during the late spring and again in the late fall following the cessation of chemical applications. One additional sampling of nitrogen and phosphorus will take place annually during the summer irrigation season. The water samples shall be taken in accordance with Standard Methods for the Examination of Water and Wastewater and analyzed at a state-certified laboratory. The results shall be forwarded to the Conservation Commission and Board of Health upon receipt. Samples shall be analyzed for all chemical compounds used on the course, including but not limited to nitrate-nitrogen, total phosphorus, and pesticides. Results shall be compared to relevant regulatory standards (MCLs from the MADEP or USEPA)

where they exist, or to method detection limits (MDLs) for chemicals that have no established regulatory standard.

79. As part of the ground and surface water quality-monitoring program the Applicant shall prepare a remedial response plan. If pesticides above the relevant MCLs or MDLs, or Nitrate in excess of drinking water standards are encountered in any of the samples, a management response plan will be enacted. Depending upon the constituent and action levels encountered, this plan should include:

- a) Notification to the Commission that an exceedence has been encountered,
- b) cessation of all chemical applications on the course,
- c) repeat sampling for the suspected contamination at the sampling point where it was first encountered,
- d) additional monitoring station installation to characterize the extent of contamination,
- e) design and implementation of a remediation response.
- f) These activities shall take place under the auspices of a Licensed Site Professional and be performed in accordance with the Massachusetts Contingency Plan and the regulations of the Department of Environmental Protection. The remediation response that is required would have to be tailored to the levels and types of contamination and be performed in accordance with MCP guidance.

80. In addition to other reporting requirements of this Order, the Applicant shall promptly notify the Commission in writing of any observed or detected change in water quality that may adversely affect the interests protected by the Act or the By-law. Thereafter, the Applicant shall consult with the Commission to determine appropriate corrective measures including, but not limited to: reduction in application frequency or quantity, or reduction in concentrations of active ingredients in or other changes in formulations, of applied fertilizers, pesticides and fungicides and herbicides; other changes in operation and management of the premises; and/or performance of additional investigations. The Applicant shall thereafter implement the recommended corrective measures and report to the Commission on their implementation. This condition is perpetual and shall survive this Order of Conditions.

Integrated Pest Management/Chemicals and Fertilizers

81. The goal of the Applicant and the Commission in the management of the project is to use an Integrated Pest Management (IPM) approach to golf course management. Toward that end, as technology develops, the Applicant shall consider new commercially available feasible synthetic and "organic" alternatives to existing chemicals.

82. The Applicant shall only hire a qualified Superintendent for the Golf Course who is a Licensed Pesticide Applicator and is state certified/IPM qualified. The Superintendent shall be on-site during both the construction and operational phases of the golf course.

83. The Applicant should evaluate the use of more water-thrifty cultivars of turfgrass than those proposed in the Applicant's *Turfgrass and Integrated Pest Management (IPM) Plan* dated February 11, 2002. The Applicant shall prepare and submit to the Commission for its review and approval a justification for the cultivars selected including quantitative information on water and fertilizer demands. If necessary, the Applicant shall prepare a revised grassing plan for submittal to the Commission for its review and approval prior to beginning any clearing activity on the site.

84. There shall be no dormant-season application of fertilizers or pesticides allowed anywhere on this property.

85. "Organic" management system shall mean an absolute prohibition on the application of any turf maintenance compound that does not occur in nature. Integrated Pest Management System shall mean the application of fertilizer, pesticides, and irrigation in a reactive, as opposed to scheduled, fashion. IPM shall further mean the use of only those chemicals with low mobility, low solubility, high affinity for soils, and short half-lives.

86. Areas not listed below shall remain in their natural state without human intervention except by permission of the Commission, or if specifically allowed elsewhere in this Order of Conditions. The Applicant, superintendent, and other individuals who are charged with the management and maintenance of the project shall follow the following management:

- a) Primary Roughs: IPM permitted
- b) Secondary Roughs: no pest management permitted
- c) Fairways: IPM permitted
- d) Tees: IPM permitted
- e) Greens: IPM permitted

87. The *initial* application of Integrated Pest Management system shall be limited to a list of chemicals approved by the Commission. As conditions warrant and as the science of IPM progresses, the list of chemicals shall be modified by the Golf Course Superintendent to be the minimum required to adequately maintain the golf course.

88. The Superintendent shall submit to the Commission, by March 1st of each year, a written management plan including but not limited to a list of the chemicals projected to be used during the ensuing year. The Superintendent shall submit the proposed list, together with a complete report on each chemical's effect on flora and fauna, to the Commission for its review and approval prior to application of any chemicals not in the then-currently approved IPM list. Information on the half-life, soil mobility, and solubility of each newly proposed chemical shall be submitted to the Commission. The Superintendent shall present his or her report at a regularly scheduled meeting of the Commission.

89. In the early fall of each year and within one month of receiving the data, the Superintendent shall submit a lab report and narrative interpretation of the results of monitoring wells and surface water testing and a complete listing of the chemicals actually applied, the concentration, and location. The Superintendent shall include monthly irrigation water use data in the report. The Applicant shall provide the Commission with funds sufficient to pay the reasonable fees of an expert qualified to assist the Commission in evaluating the data presented in the reports if the Commission so requests. The Commission shall schedule a public meeting within 30 days from receiving the reports. The Commission shall approve the projected management plan, modify the management plan with the consent of the Superintendent, or reject changes to the existing management plan at this meeting. The Superintendent shall attend this meeting or the plan will have to be rejected outright. The Superintendent shall not implement any proposed changes to the existing plan until approved by the Commission.

90. The Course Operations Plan should address Commission concerns as set forth below. The Commission's concerns include:

- a) yearly maintenance plan
- b) monitoring and control practices
- c) action thresholds set each year based on last year's results.
- d) as-built plans of the golf course used to locate and record pest monitoring results, potential problem areas (i.e. poor drainage, poor air-flow, poor sunlight, etc) and pest occurrence locations from previous years.
- e) fertilization, "fertigation", soil testing, grass tissue, irrigation water testing
- f) use of slow-release chemicals and natural organic fertilizers
- g) consideration of forecasted rain events to influence applications of chemicals
- h) potential diseases and pest problems and methods to control them
- i) environmental risk assessment of various chemicals, areas of high risk based upon character of soils or proximity to resources, use of low-risk pesticides, spot treatments as a favored practice
- j) use of other management options before pesticide usage, tracking of damage thresholds and favorable conditions for pest damages, biological control methods
- k) minimizing drift and overspray
- l) proper record keeping including tracking of prior results and changes
- m) periodic review of the Course Operations Plan by UMass Cooperative Extension Turf Program specialists
- n) water quality sampling for impacts from various chemical applications
- o) keeping up-to-date on the latest pest control and preventative control; and use of various non-intrusive cultural practices to increase pest susceptibility.
- p) chemical application schedules and locations
- q) storage and mixing of chemicals and spray application equipment
- r) composting, mulching of clippings
- s) adverse impact occurrence and tracking for areas within Commission jurisdiction

- t) methods; proper on-going staff training; adequately educating the staff, groundskeepers and the golfing members, residents and/or general public; use and maintenance of proper equipment (including periodic applicator calibrations as recommended by appropriate manufacturers or UMASS); use of proper materials management and safety procedures; practice rotational use of specific pest controls where possible but within other strictures, to lessen potentials for development of pest resistance

91. The Applicant shall avoid both fertilizer and pesticide applications and associated drift to occur within 40 feet of existing wetlands, streams and drainage-ways and within 100 feet of vernal pools except for the initial two applications of fertilizer to the secondary rough as specified in the grassing and IPM plans. This Condition is perpetual and shall survive this Order of Conditions.

Stormwater Control

92. Stormwater from the proposed development discharges to wetlands, Nagog Brook, and Wills Hole Brook. The stormwater discharge from the parking lot, Skyline Drive, and all other portions of the site that contain impervious surfaces must meet the MADEP's Stormwater Guidance criteria of 80% TSS removal regardless of the location of the discharge outlet. Prior to the commencement of any construction activities (including clearing) the Applicant shall submit revised plans and calculations to the Commission that show conformance of the project with this standard.

93. The proposed site plans include numerous provisions for the interception and collection of runoff, underdraining of golf course features, and recycling of stormwater for use in irrigation. The course is proposed to be built with a network of area drains, topographic grade changes, numerous detention ponds (both lined and unlined), and irrigation storage reservoirs (lined) that may alter wetland hydrology through water diversion and evaporation. Two irrigation supply wells (BE-2 and BE-5) and a turfgrass irrigation system are also proposed. A water balance accounting for all of these features that uses:

- a) evapotranspiration rates derived from golf course turfgrass studies,
- b) rainfall rates for this locale,
- c) infiltration rates tied to site soil characteristics, and
- d) water use statistics for the turfgrass cultivars proposed for this course

shall be prepared by the Applicant and submitted to the Commission for its review and approval prior to the commencement of any construction activities (including clearing) on the site. If this water balance shows a net loss of available water to the wetlands or vernal pools on the site (through either runoff or infiltration) then the Applicant shall prepare and submit a monitoring and mitigation plan to the Commission for its review and approval. This plan must be approved

and in place prior to the commencement of any construction activities (including clearing) on the site.

Water Withdrawals and Monitoring

94. Testing of irrigation well BE-2 has shown that pumping of the well has a pronounced effect upon groundwater levels and availability within nearby wetlands. The Applicant shall design and install a water level monitoring device that measures groundwater elevations in the vicinity of wetland flag L-96. This monitoring device shall contain a water-level-activated switch that turns off the pump in irrigation well BE-2 whenever groundwater levels in the monitoring device fall below one foot below ground surface. This automated system shall not contain manual overrides and shall be active all year. The purpose of this system is to prevent drawdown in the wetland due to withdrawals at BE-2. The Applicant shall present the design of the monitoring and automatic shutoff system to the Commission prior to the withdrawal of any water from well BE-2.

95. Due to the demonstrated effect of irrigation withdrawals on resource areas on the site, the installation of any irrigation supply wells in addition to BE-2 and BE-5 shall require testing of the potential drawdown effects on resource areas prior to the new wells being placed into operational use. This Condition is in force regardless of the proximity of the new well(s) to Wetland Protection Act or Town of Acton Wetlands By-Law resource areas. The protocol for, and results of, the test(s) shall be transmitted to the Commission for their review and approval prior to the well(s) being placed into operational use.

96. The Applicant shall submit monthly reports of groundwater extraction, and groundwater, surface water and precipitation measurements to the Commission. The first report shall be submitted no later than January 15th for the preceding fall quarter (September 1 through December 31), no later than July 15th for the preceding spring quarter (April 1 through June 30), and not later than October 15th for the preceding summer months (July and August).

Protection of Resource Areas

97. The Applicant shall prepare and submit to the Commission for its review and approval a shoreline design plan for the irrigation ponds. This plan shall include details concerning the pond liner, shoreline erosion control measures, shoreline planting plan, and a planting schedule.

98. Densely-growing shrubs or brambles shall be planted at the upslope edge of the 25-foot buffer zone on each side of each overstory clearing across wetlands. The Applicant shall prepare and submit a planting plan and schedule to the Commission for each of these areas prior to beginning any clearing activity on the site.

99. The initial overstory clearing of wetlands shall only be allowed to occur in the winter months and under frozen ground conditions. Overstory clearing shall only be by non-mechanized lop-and-drop methods with excess brush, limb, or trunk material removed by highline or other techniques that do not involve the use of machinery in the wetlands. Materials cannot be dragged out of the wetlands except by hand.

100. Where cart path bridges are proposed across wetlands any overstory cutting in the wetland shall be limited to the width of the bridge plus 5 feet on either side of the bridge. These clearings can occur outside of the winter-only limitation for all other wetland overstory clearings. Overstory clearing shall only be by non-mechanized lop-and-drop methods with excess brush, limb, or trunk material removed by highline or other techniques that do not involve the use of machinery in the wetlands. Materials cannot be dragged out of the wetlands except by hand. Cart path bridges must be built from on-structure, machinery shall not be driven or placed in the wetland.

101. The maintenance period cutting of wetland overstory shall occur either in the winter months (under frozen ground conditions) or in the summer under dry conditions (rainfall less than 0.25 inches in the preceding 7 days).

102. No clearing or other construction activity is allowed in vernal pools or within 100 feet of vernal pools, with the exception of the vernal pool located adjacent to wetland flag L-96 (10th fairway). For that vernal pool, no clearing or other construction activity is allowed within 50 feet of the vernal pool. The area of vernal pool habitat for that vernal pool that is between 50 and 100 feet out from the pool in the direction of the 10th fairway is subject to Special Condition 58, above. In other areas where amphibian migration has been or is observed or is considered likely to occur by either the f or the Commission, all reasonable efforts to avoid or minimize construction activities likely to interfere with such migration should be taken between March 1 and June 30 (end date to be annually adjusted based on field conditions with the approval of the Commission, so as to avoid impacts on migrating amphibians or other vernal pool species within the pools themselves).

103. Cart path bridges across wetlands and water bodies must begin and end at locations depicted on the plans but their intervening alignment may be adjusted in the field upon the advice of the Conservation Agent to maximize retained overstory cover or preserve ground features as feasible. The piles for the structures will be made of ACQ pressure treated lumber or equivalent and will elevate the bridges to minimize shadowing effects and impediments to natural flow of water as feasible. The low chord of the cart path bridges shall be set a minimum of three feet above grade at the center of the structure and over all streams.

104. The Applicant shall ensure that established and viable native herbaceous and shrub species cover about 80% of each overstory management area, and about 75% of each other wetland enhancement areas, within two growing seasons. The Applicant shall perform

additional plantings, and take other appropriate measures as necessary to attain these coverages as soon thereafter as possible. The annual reports required by the Order of Conditions shall continue until the required coverages have been established to the Commission's satisfaction. This Condition shall survive this Order of Conditions.

105. The Applicant shall set and enforce course rules, including but not limited to designation of all wetlands as "out-of-play" areas, accompanied by reasonable penalties and disincentives, and shall install appropriate educational signage with the intent of preventing golfers or others from entering wetlands or waterways under Commission jurisdiction to retrieve errant golf balls. The Applicant shall submit to the Commission for its review and approval an example of the signage to be used including the proposed spacing of such signage. Intrusions into resource areas at the frequency levels expected due to proximity of resources to playing areas are likely to damage the wetlands. The Applicant is urged to consider imposing a club fine for such intrusions which exceeds the value of the lost ball, thus encouraging players to adhere to the rules. This concern should be a component of member and player education on course playing protocols, with its importance properly emphasized. Once per year in early fall before leaf drop, the course superintendent may authorize course employees to walk through wetlands picking up any errant balls, all of which shall be done by hand. Said employees shall be instructed in the sensitivities of wetlands and encouraged to respect them during such retrieval activities, which shall be minimal. This Condition is perpetual and shall survive this Order.

106. The Applicant shall designate new "No-Disturbance Zones" on the site. The undisturbed areas include: all resource areas and all undisturbed buffer zone areas as shown on the Project Plans, and all undisturbed areas beyond but contiguous to the buffer zone as shown on the Project Plans. All areas so designated shall be left undisturbed unless the Commission gives prior approval. Fallen trees shall be left in place and there shall be no pruning or removal of any vegetation. There shall be no structures or vehicular paths allowed in these areas. Notwithstanding the provisions above, if the Applicant determines at some future date that undesirable invasive species should be removed it may do so using manual methods. This Condition is perpetual and shall survive this Order of Conditions.

107. The Applicant must re-vegetate other buffer zone areas which are not proposed to be utilized as rough or fairways but where grading is allowed for golf course construction. These areas must be re-vegetated with native trees, shrubs, wildflowers and grasses. Seed sources (of non-alien, non-invasive species) removed in the course of grading activities on the Site may be replanted in these areas. These areas shall be allowed to progress through the process of natural succession and shall not be maintained in any way except that any undesirable alien invasive species shall be promptly removed so using manual methods. This Condition is perpetual and shall survive this Order of Conditions.

108. The Applicant shall ensure that viable, native herbaceous and shrub vegetation covers about 80% of each overstory management area within two growing seasons, and shall

undertake supplemental plantings consistent with the results of Special Condition 58 as necessary as soon thereafter as feasible but not later than the succeeding growing season.

Off-Site Mitigation

109. The Applicant is required to compensate or mitigate for the impacts on wetlands/BVW and buffer zones, of the proposed removal of overstory canopy for creation of "overplay areas" within the proposed golf course layout. The Commission has made Findings establishing the extent and nature of these impacts, which are appended to this Order. The Commission has further found that the Applicant is and has been unable to propose or accomplish sufficient, adequate and effective compensation for or mitigation of these alterations of the resource values within the Site. Therefore, the requisite compensation or mitigation must occur off the Site if the project is to be permitted by the Commission under the Bylaw.

The Applicant has not to the date of the issuance of this Order proposed a sufficient, adequate and effective project or program for such off-site mitigation or compensation, nor has the Commission accepted any proposal put forth by the Applicant. Therefore, and as a condition for the issuance of this Order, the Commission adopts and issues the following "conditions subsequent" directing the development and submittal by the Applicant of an off-site compensation or mitigation program ("the OSMP") proposal and its implementation. These "conditions subsequent" also include provisions to ensure the Applicant fully complies with this Order.

The Commission has not yet determined the extent of mitigation which the Applicant must provide in order for the Commission to finally approve the requested waivers of Bylaw requirements. The Commission has found that, in order for the requested waivers to be granted, the Applicant must satisfy the condition in section F4.5 of the Bylaw by establishing that the requested waivers are in the public interest and are consistent with the intent and purpose of the Bylaw. The Commission has noted that the Applicant must provide sufficient additional public benefits associated with the project to compensate for 4.6 acres of overstory clearing in the wetlands/BVW and 25-foot no disturbance zones. The Commission considers that the Applicant's OSMP plan should compensate for such alterations by replacing the wetlands or by providing additional public benefits equivalent to their value. In considering the adequacy of the Applicant's OSMP, the Commission will consider the following, or other comparable public benefits, favorably:

- a) Comparable replacement wetlands permanently protected and dedicated to Town conservation use;
- b) Land of comparable value suitable for use for recreation or as playing fields;
- c) Donation of the proceeds from an annual golf tournament to be given to the Town for conservation/recreation purposes;
- d) A contribution to the Town's fund for construction of a bike trail.

In reviewing the Applicant's OSMP the Commission intends to apply the principle that the Commission is not charged with denying proposed projects but with approving reasonable projects with conditions adequate to protect the interests of the Act and the Bylaw. In this instance, the Commission notes the number, large size and extensive nature of the alterations of areas protected under the Bylaw, which the Applicant has proposed in connection with the project.

Not later than three (3) months following the issuance of this Order, the Applicant must submit its final and complete plan or plans for complying with provisions with regard to the OSMP to the Commission for review and acceptance. The Commission action shall be taken by vote in open meeting within 30 days of receipt of the Applicant's submittal. In the event of rejection or partial rejection of the Applicant's submittal by the Commission, the Applicant shall have a period of time as specified by the Commission but not exceeding 60 days in which to fully address identified deficiencies in the proposed OSMP plan or schedule and resubmit its proposed OSMP plan.

Not later than nine (9) months following issuance of its approval of the Applicant's proposed OSMP plan and schedule, it shall have fully implemented the approved plan, and shall have submitted to the Commission its certification and proof of implementation and compliance with the provisions of this Order with regard to the OSMP.

On Site Mitigation

110. The WPA and the Bylaw both require mitigation for wetland losses due to project impacts. Compensatory wetland mitigation area(s) shall be created on this site to mitigate for wetland loss due to filling (including the filling effect of the golf cart bridge piles). Both short-term and long-term fills must be mitigated in this fashion. The Applicant shall prepare design plans, details, and specifications for wetland creation on this site. This material shall be submitted to the Commission for its review and approval prior to beginning any construction activity on the site.

END OF SPECIAL CONDITIONS

APRIL 23, 2002

QUAIL RIDGE COUNTRY CLUB

CLARIFICATION OF SPECIAL CONDITIONS

COPY

51. The Commission expects the wetland crossings to be constructed as approved. Significant modifications will require Commission review and approval. The Commission does not intend the Applicant to come back before them for minor modifications such as selectively leaving trees uncut within the clear-cut zones, minor re-alignment of fairways as construction warrants, minor modifications to the irrigation ponds deemed to have a benefit to wildlife, etc. It is expected that minor site modifications will be reviewed and approved by the Commission's Agent and the Environmental Monitor. Once the course is completed an 'as built' plan of the site will be required. All changes to the approved plans will require notifying the Commission's Agent before such work has commenced.
57. (d) All erosion control measures, specifically silt fence and hay bales will be kept in good, functional condition. This is standard practice for all reputable construction companies regardless of the size of the storm event.
58. The Commission requires detailed plans including numbers of trees to be removed, and a quantitative analysis of the 'alteration corridors' within the Commission's jurisdiction. Clearing of the forested portions of the Palmer Property greater than 100' from wetlands, vernal pools or other jurisdictional areas may proceed; the intent being, to give the Applicant access to all non-buffer zone areas of the golf course on the south and west side of Nagog Brook for the purpose of clearing. In addition, the installation of temporary access crossings #1 and #2 may be initiated as well. (This is further elaborated in #77 and #78 below). In order to better understand the long-term impact of more than 90,000 s.f. of wetland alteration approved in this Order of Conditions, the Commission feels strongly about the preparation of information requested in Condition 58.
59. The Commission reserves the right to hold public meetings when they feel the submittal warrants public review. However, it is the Commission's expectation that a Commissioner or its Agent acting on behalf of the Commission will approve most of these requested submittals.
77. As stated in Condition 58, clearing of areas outside of the 100' buffer zone or areas not within the jurisdiction of the Commission may proceed. The Commission feels strongly that pre-construction groundwater sampling (base-line data) is important, to that end, the Applicant may construct 'access roads' wide enough for well installation equipment to access permanent monitoring well locations within the buffer zone areas (access roads not to exceed 15' in width).

✓ As many of the monitoring wells are expected to be located on the south and west side of Nagog Brook, access will require the installation of the proposed temporary accesses #1 and #2 prior to the monitoring well installations.

78. A great deal of information regarding both the flow patterns of surface water and to a lesser extent, the migration of groundwater on this site is already known. The Commission expects that a water quality monitoring plan, both for surface and groundwater, be submitted for approval. Non-jurisdictional areas may be cleared, including the installation of temporary access points. Once the monitoring well location plan has been reviewed, it is the Commission's intent to allow access to all areas of the site to speed up the installation of groundwater monitoring wells, thus hastening the collection of base line monitoring data. Preliminary locations for groundwater monitoring wells will be reviewed by the Agent and Commissioners assigned, to be followed by the required plan for the Commission's review and approval.
83. It is the Commission's position that all measures should be taken to establish a turf that is as conservative as possible concerning water needs. To that end, it is not the Commission's intention to delay construction, or to require turf demanding increased fertilization or greater potential for pest or disease potential, rather the Commission is requesting a justification of the turf grass cultivars preferred.
- 88, 89 & 90. The Commission wishes to review a yearly management plan including chemicals in use, monitoring well results, surface water testing – changes proposed for the following year, etc. It is the Commission's wish to fully understand the effects both short and long term that this golf course may have on the environment. The 30-day review period is a deadline for the Commission's review and does not impose any burden on the Applicant.
92. The Applicant is required to meet the Massachusetts Department of Environmental Protection's Stormwater criteria for 80% TSS removal. Had the plans been complete when the Notice of Intent was filed, this condition would not have been necessary. Once the Town of Acton Engineering Department is satisfied with the treatment of stormwater from impervious surfaces, information can be forwarded to the Commission.
93. Information provided by the Applicant showed a direct correlation between well pumping (draw down) and the lowering of water elevations in adjacent wetlands near BE-2. Naturally, this is not permissible. At this time the Applicant is be permitted to cross Nagog Brook at the two proposed temporary access points to reach potential well field locations on the south side of Nagog Brook.

MAY 1, 2002

QUAIL RIDGE COUNTRY CLUB

CLARIFICATION OF SPECIAL CONDITIONS

COPY

45. It is the Commission's intent to see that QRCC is constructed according to the plans approved. To that end, the Commission and/or its Agent will periodically inspect the site for compliance with the Order of Conditions, DEP File No. 85-778, during the construction phase.

The Commission and/or its Agent reserves the right to enter the property during construction for the purpose of site inspections. Prior to entering the site the Commissioner or Agent will notify the Applicant. Any and all minor problems related to the Wetlands Protection Act observed during the inspection will be brought to the attention of the Project Manager for correction. Under the wetland regulations, a single commissioner or its agent can issue an Enforcement Order to stop work. This order must then be ratified by a majority of Commissioners at the next scheduled meeting. This, by law, could be issued while on an approved inspection. While stop work orders are rarely issued, such things as:

- a) work in wetlands in areas not approved by the Order of Conditions,
- b) blatant discharge of petroleum products from construction equipment into resource areas,
- c) erosion control measures not kept in good working condition causing the silting of Nagog Brook,

are examples that could prompt the issuance of an Enforcement Order.

It is the Commission's wish to see that construction progresses with a minimum impact to wetland resource areas. Our work experience to date with Northwest Development leads us to believe that the construction of Quail Ridge will proceed smoothly.

46. It is the Applicants responsibility to ensure that all work is done according to the approved plans. To that end, it is also the Applicants responsibility to ensure that all subcontractors understand the Order of Conditions to ensure compliance. The letter from sub-contractors, etc. should indicate that they have received, read and understand the Order of Conditions.
54. It is important that any missing flags be replaced as soon as they are discovered. Flags need to be kept visible during construction to ensure that the wetland crossings are clearly identified. This will also help the Agent, Commissioners and Environmental Monitor during inspections.
55. This is a standard condition, please make sure that the property boundaries are clearly identified.
56. The Applicant needs to indicate clearly in the field where the wetland crossing areas are located; I think Ian Rubin had already done this once. Epsilon's clarification is correct, the haybale line will help to indicate where the crossing points will be.

62. It is the Commission's intent to avoid having Purple Loosestrife and Fragmites being introduced to this site from haybales. The Applicant shall ensure that haybales come from a reputable supplier from fields free of invasive species. Many local farmers cut hay in uplands fields free of Purple Loosestrife. That will be sufficient to cover the certification intent of this condition.
- 64(a). If weather permitted (as it has in the past several years), the Commission would be comfortable with the Applicant applying seed after October 15th. One of the ultimate goals in all conditions is to ensure that erosion is kept to a minimum.
73. During construction routine refueling and greasing of equipment is expected to occur throughout the site. Refueling should occur outside of the 100' buffer zone and the site be kept clear of such things as grease tubes, oil containers, etc., this is common sense. Post construction maintenance should be done indoors.
79. The Commission is comfortable with John Bresnahan's interpretation of the condition,... "The intent of the condition is consistent with the established water quality monitoring program."
82. It is up to the Applicant to decide at what point during the construction phase the superintendent is hired.
84. The Commission would approve of the application of a fungicide to control snow mold after November 15th, should it be required.
85. The Commission agreed with the interpretation supplied by John Bresnahan... "the intent of this condition is to encourage the use of organic fertilizers and biocontrol products within the established golf course maintenance program."
86. Areas of the course that are greater than 100' away from wetlands may be maintained in a condition deemed appropriate by the Applicant.
87. The initial IPM list of chemicals shall be submitted to the Commission for review just as the Town receives yearly operational plans for right-of-way maintenance currently. The Commission reviews and keeps the plan on file and has the right to review the plan in public session. The initial list simply gives the Commission a base line of chemicals to be used.
109. Representatives from the Recreation and Conservation Commissions will meet with the Natural Resources Director to decide on the form that off-site mitigation will take. We are leaning towards an annual fund raising event whose funds will be dedicated to improving recreation and conservation opportunities in Acton.

45. In the event that a major violation is found work would stop in the immediate area around the violation. For example: if it was found that a wetlands clearing area was oversized or incorrectly located work at that location would cease until the issue was rectified. All other work on the site deemed to be in compliance with the OOC could continue.

To review the Wetlands Protection Act Regulations pertaining to enforcement orders see 310 CMR, Section 10.08.

46. As previously stated, the Commission requires that any and all subcontractors that will be working in areas subject to the Wetlands Protection Act read and understand the OOC and sign a document stating that have done so.
57. The Commission is comfortable with Epsilon's suggestion for the time spent on site by the Environmental Monitor once the site has become stabilized.
83. The Commission is satisfied that the selected grasses are acceptable, however, documentation is required for the file. This conditions applies only to areas within the Commission's jurisdiction.
- 88, 89, & 90. The current list of IPM chemicals is satisfactory to the Commission. Any knowledgeable representative from QRCC may present the IPM Plan to the Commission. We would prefer the superintendent as he or she would likely the most knowledgeable person on staff regarding all aspects of the IPM Plan.
92. Conversation with the Town Engineers on May 3, 2002 suggests that not all of the parking lot runoff meets the 80% TSS removal rate required by the Stormwater Management Best Practices. It is up to the Applicant to meet these required standards.
109. Representatives from the Recreation and Conservation Commissions will meet with Town Staff on Wednesday, May 8, 2002 to draft the mitigation plan acceptable to address the Conservation Commission's concerns.

PERMIT NUMBER: 03-15NR

FEE:

TOWN OF ACTON - BOARD OF HEALTH

DATE: 05/23/2003

**THIS IS TO CERTIFY THAT QUAIL RIDGE COUNTRY CLUB
of 178 GREAT ROAD, ACTON., MA**

is hereby granted permission to have a licensed installer
install a **SEWERAGE DISPOSAL SYSTEM** on the premises at:
PARCEL B SKYLIN

In accordance with an application received by the Board of
Health on No date and the approved plans:

By Joseph March dated May 20, 2003.

Approval is subject to limiting the rate of sewage disposal
to not more than 9,950 gallons per day and pumping the
septic tank every two years.

This permit expires on **05/23/2005**. Any variation during
installation of the sewerage disposal system from the plans
approved by the Board of Health should be reported to the
design engineer and the Board of Health or their agent for
their review and comment prior to continuing construction
of the sewerage disposal system.

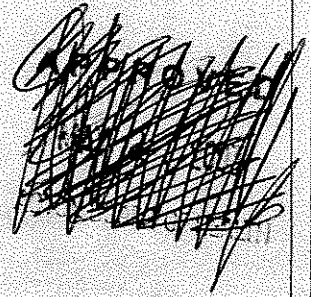

AGENT OF THE BOARD OF HEALTH

Violation of any of the requirements or conditions will
cause immediate revocation of this permit.

GENERAL REQUIREMENTS AND CONDITIONS

This installation requires compliance with Acton Board of
Health regulations #11-2, #11-3, #11-3.1, 11-3.2, #11-11,
#11-11.1, #11-11.2 and #11-11.3. In summary these
regulations require that the owner of the land is
responsible for all work being done in compliance with the
approved applications and plans. All work performed must be
by a Disposal Works Installer who is licensed by the Town of
Acton and all work must be inspected and approved by the
Board of Health or its agent.

***In addition the Board of Health requires inspection of all
construction by a Registered Professional Engineer and
requires that such engineer certify in writing that all
work has been completed in accordance with the terms of the
permit and the approved plans.**


APPROVED
MAY 23 2003
ACTON BOARD OF HEALTH



Town of Acton, Massachusetts

Certificate of Compliance

This is to Certify, that the On-site Sewage Disposal System installed ☒ or repaired/replaced ☐ which was completed on 8/1/05 by B & V EARTHWORKS for QUAIL RIDGE COUNTRY CLUB, LLC at QRCC (354 C GREAT ROAD) has been constructed in accordance with the provisions of Title 5 and the Disposal System Construction Permit No. 03-15NR dated 5/23/03. (SEE PARTIAL AS-BUILT DATED 11/14/05)

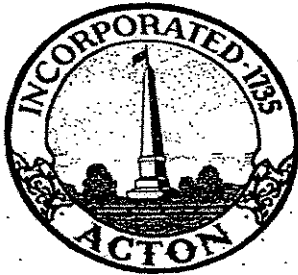
Use of this system is conditioned on compliance with the provisions set forth below:

THIS CERTIFICATE IS FOR THE SEPTIC TANK INSTALLED AT
THE GOLF CART STORAGE BUILDING ONLY - SEE
SEPARATE CERTIFICATES OF COMPLIANCE ISSUED FOR THE LEACHING
AREA & FAMILY CTR. BUILDINGS

The issuance of this certificate shall not be construed as a guarantee that the system will function as designed.

Signatures:

Date	<u>12/1/05</u>	Designer	<u>Joseph Mank</u>
Date	<u>12/1/05</u>	Installer	<u>Dennis P. Ly for B & V.</u>
Date	<u>12/1/05</u>	Electrical Inspector	<u>N/A</u>
Date	<u>12/1/05</u>	Approving Authority	<u>[Signature]</u>



Planning Board

RECEIVED & FILED

DATE Jan 15 2003
Edward J. Ellis
TOWN CLERK, ACTON

MDSX SO. DIST. DEEDS

DOCUMENT: 307

307

DATE: Mar 10

7-19-03

TOWN OF ACTON

TIME: 472 Main Street

Acton, Massachusetts 01720

Telephone (978) 264-9636

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DECISION

03-01

Skyline Drive
Definitive Subdivision
January 14, 2003

COPY

APPROVED
with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Quail Ridge Country Club, LLC, 178 Great Road, Acton (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Gloria W. Palmer, Trustee of Palmer Family and Skyline Realty Trusts, 352 Great Road, Acton. The property is located at 348-352 Great Road and shown on the 2002 Acton Town Atlas map D-4 as parcel 2, 4, 7, 10, 16, 17, 17-1, and 39 (hereinafter the Site).

This Decision is in response to an application for approval of a Definitive Subdivision Plan entitled "Skyline Drive", pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules). The Acton Planning Department received the application on May 31, 2002.

The Applicant presented the subdivision proposal to the Board at public hearing sessions on July 22 and December 17, 2002. In between, the hearing had been continued twice (9/10/02 and 10/22/02) without deliberations. Representatives of Acton Survey & Engineering, Inc. assisted the Applicant with the presentation. Board members Ken Sghia-Hughes (Chairman), Lauren S. Rosenzweig (Vice Chairman), Hartley E. Millett, Gregory E. Niemyski, Edwin F. Pearson, Christopher R. Schaffner, and associate member Mobina F. Mohsin were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "Skyline Drive Definitive Subdivision" dated May 2002, last revised October 2002, consisting of 9 sheets, drawn by Acton Survey & Engineering, Inc. of 97 Great Road, Acton.
- 1.2 Supplemental items and documentation required by the Rules consisting of:
 - A properly executed Application for Approval of a Definitive Plan, form DP, dated May 30, 2002.
 - Filing fee.
 - A completed Development Impact Report, form DIR.
 - Designer's Certificate.
 - Certified abutters list.

- Applicant's statement to retain the fee in the street (not applicable, private street).
- Legal notice of public hearing.
- A list of requested waivers.
- Copy of the deed (book and page references submitted).
- Drainage and water balance calculations (see QRCC special permit, Decision 02-06).

1.3 Additional information submitted by the Applicant:

- Application cover letter by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 5/28/02, with a list of requested waivers.
- Letters by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 6/5 and 6/7 2002, with attached plans, clarifying the status of various parcels shown on the subdivision plan.
- Letter by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 11/1/02, with a revised subdivision plan, and revised and supplemental application materials.
- Letter by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 11/1/02, with responses to departmental reviews, a revised subdivision plan, and revised and supplemental application materials.
- Letter by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 12/17/02, with additional waiver requests.
- Letter by Mark T. Donohoe, PE, Acton Survey & Engineering, Inc., dated 12/17/02, with responses to departmental reviews of the revised plan.

1.4 Interdepartmental communication received from:

- Acton Building Commissioner, dated 6/10/02.
- Acton Engineering Department, dated 7/12/02 and 12/10/02, both with attachments.
- Acton Fire Chief, dated 7/17/02.
- Acton Health Director, dated 6/17/02.
- Acton Historical Commission, dated 7/10/02.
- Acton Planning Department, dated 7/18/02 and 12/10/02.
- Acton Treasurer's Office, dated 6/6/02 and 11/6/02.
- Acton Tree Warden & Municipal Properties Director, dated 6/18/02 and 11/6/02.
- Acton Water Supply District, dated 6/18/02 and 11/11/02.

1.5 Other:

- Decision #02-03 of the Board, Approval of Preliminary Plan for Skyline Drive.
- MassHighway Finding Pursuant to M.G.L. ch. 30, s. 61 for Quail Ridge Country Club, dated July 24, 2002 (EOEA #12503).
- MassHighway entrance permit application, dated 6/6/02.
- Correspondence from Thomas J. Waruzila, MassHighway District 3 Director, from August 2001 and March 2002 concerning sidewalks on Great Road.

Exhibits 1.1 through 1.3 are referred to herein as the Plan.

2 **FINDINGS and CONCLUSIONS**

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The majority of the site is located within the Residence 10/8 zoning district. The rest is within the Limited Business (LB) district. The Site is within the Affordable Housing Overlay Sub-District A; the Groundwater Protection District Zones 2, 3, and 4; and portions are within the Flood Plain District.

- 2.2 The Plan shows the division of approximately 167.5 acres into six lots. Lots 1, 2, and 3 would have the three existing single family residences. A proposed new kennel would be on Lot 4 pending approval of site plan and use special permits. Parcel A features the Concord Water Department filtration plant. Parcel B is the land of the Quail Ridge Country Club, a golf course with clubhouse and related facilities approved by the Board on May 20, 2002 (Decision #02-06), and presently under construction.
- 2.3 The existing and proposed uses are allowed, or may be allowed by special permit, on their respective portions of the Site in accordance with the Acton Zoning Bylaw (hereinafter the Bylaw), including all overlay district requirements.
- 2.4 The proposed Skyline Drive would be +/-1050 feet long intersecting with Great Road, State Highway Route 2A/119, which is an Arterial Street. Skyline Drive as proposed is an upgrade with modifications of an existing driveway of approximately equal length.
- 2.5 Skyline Drive is proposed as a private street serving as access for three homes, one kennel, and primarily the Quail Ridge Country Club. This requires a legal framework for its ownership and maintenance. The Board needs assurances that the Town will not be asked to plow, maintain, or accept the private way in the future.
- 2.6 The project engineer signed the application form for the applicant and the landowners, without providing evidence of authorization.
- 2.7 The Applicant had initially requested a waiver from the sidewalk requirements of the Rules.
- 2.8 A previous Common Drive special permit (Decision of the Board #98-5) reserved a sidewalk easement along the Site's Great Road frontage; plan 739 of 1998 and document 772 (or possibly 774) of July 8, 1998 at the Middlesex South District Registry of Deeds. The latest revised plan shows a sidewalk along the Site frontage on Great Road that would connect with existing sidewalks at both ends.
- 2.9 The Applicant has nearly completed Hillside Condominium (Meyer Hill Drive), a residential development project just north and on the opposite side of Great Road from the proposed subdivision. The Board had approved that project (Decision #99-14) with conditions for a sidewalk along its Great Road frontage. It also included a request to continue the sidewalk along Great Road south to Main Street instead of building a sidewalk on the upper portions of Meyer Hill Drive. The Board then recognized that the sidewalk to Main Street would be harder and more expensive to build than additional sidewalks on Meyer Hill Road.
- 2.10 Great Road is a State Highway where MassHighway has jurisdiction and access control. Citing regulations of the Massachusetts Architectural Access Board, MassHighway has rejected a plan that showed the proposed sidewalk without a connection to existing sidewalks or other walking facilities. Granting a waiver to allow Skyline Drive without a sidewalk should provide the Applicant with adequate resources to complete the Great Road sidewalk as the Board had requested in Decision #99-14, and thus meet MassHighway's criteria for plan approval.
- 2.11 MassHighway's access control extends to entrance or curb-cut permits along Great Road. The project engineer stated at the public hearing that his client could not obtain a MassHighway curb cut permit until after the approval of the subdivision. The configuration of the Skyline Drive intersection is therefore subject to MassHighway approval.
- 2.12 The plan suggests a change in street addresses for existing homes on the Site.
- 2.13 The Board solicited comments from various Town departments. Comments received are listed in Exhibit 1.4 above. The Board considered these comments in its deliberations and made them available to the Applicant. They are restated herein as required plan modifications or conditions as deemed appropriate by the Board.

- 2.14 The Applicant has requested certain waivers from the Rules. These are discussed in section 3.1 below.

3 BOARD ACTION

Therefore, the Board voted on January 14, 2003 to APPROVE the definitive subdivision subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations.

3.1 WAIVERS

The Applicant has requested the following waivers from the applicable Rules:

- 3.1.1 Waiver from Section 5.3.7 to allow the locus map on the Plan with less surrounding area shown. The waiver is **NOT GRANTED**. Show a locus map as the Rules require.
- 3.1.2 Waiver from Section 5.3.9 to allow street address numbers not to be shown on the Plan. The waiver is **NOT GRANTED**. The Plan as last revised shows them.
- 3.1.3 Waiver from Section 5.3.14 to allow the omission of topographic information on the entire site, rather showing it only in the area of the proposed subdivision street. The waiver is granted because the relevant existing and proposed topography is shown in the Plan.
- 3.1.4 Waiver from Section 5.3.23, 24, and 27 to allow the omission of information pertaining to new septic systems. The waiver is **NOT GRANTED**.
- 3.1.5 Waiver from Section 8.1.7 to allow a 650-foot offset from the Great Road/Main Street intersection where 1000 feet would be required. The waiver is granted because there is insufficient room along the Site frontage.
- 3.1.6 Waiver from Section 8.1.14 (vertical design standards, Table II) to allow a 2.25% grade in the intersection approach to Great Road. The waiver is **NOT GRANTED**. The grade shall be adjusted to 2% within 50 feet of the intersection as the Rules require.
- 3.1.7 Waiver from Section 8.1.18 to allow a modified street turnaround as shown on the Plan. The waiver is granted because the turnaround as shown is adequate for the proposed uses, and because the approved plan for Quail Ridge Country Club (Board Decision #02-06) provides adequate space for a school bus turnaround in the club house parking lot.
- 3.1.8 Waiver from Section 8.2 to allow omission of drainage reports and calculations since they were included with the special permit application for Quail Ridge Country Club. The waiver is granted so that no full and comprehensive reports and calculations are required. The Applicant has submitted supplemental information consisting of a completed MADEP Stormwater Management Form, pipe sizing calculations, and retention basis volume calculations. This is adequate except for modifications required herein.
- 3.1.9 Waiver from Section 8.3 to allow omission of an erosion and sedimentation control plan. The waiver is **NOT GRANTED**. The Plan, and construction approved herein shall comply in all respects with section 8.3 of the Rules.
- 3.1.10 Waiver from Section 8.7.3 to allow the omission of drainage easements along existing water courses. The waiver is granted only for the portion of Parcel B that will be in active golf course use. In all other parts of the Site, including the portion of Parcel B east and southeast of Lot 4 where no golf course construction or use will occur, easements for drainage courses shall be shown on the Plan.
- 3.1.11 Waiver from Section 9.1.1 (typical structural section) to allow a reduction of the shoulder width from 10 to 4 feet. The waiver is granted. This will minimize wetland impacts. As with

the existing driveway, the street replacing it will be elevated above the surrounding terrain so that snow will fall away from the street when plowed.

- 3.1.12 In the preliminary plan submittal, the applicant had requested a waiver from section 9.1.1 (typical structural section) to allow a 20-foot pavement width where 24 feet appear indicated based on expected traffic volumes. The definitive plan shows 20 feet. The waiver is granted. The Plan shows two speed humps, which adequately serve as physical speed control measures, the use of which the Board had suggested in its preliminary plan approval (Decision #02-01).
- 3.1.13 Waiver from Section 9.6.1 omitting the sidewalk along Skyline Drive. The waiver is granted. Instead, the Applicant shall show on the Plan and construct a sidewalk on the easterly side of Great Road from the southerly border of the Hillside Condominium site to Main Street.
- 3.1.14 Waiver from Section 9.6.1 which would also require a sidewalk along the Site's Great Road frontage. The waiver is **NOT GRANTED**. The sidewalk shall be built as shown on the last revised Plan and as modified herein.
- 3.1.15 Waiver from Section 9.8 to allow omission of the required street trees. The waiver is granted. The proposed street replaces an existing driveway. There are extensive woods and meadows along the existing driveway. The proposed upgrades and modifications shown on the Plan will not significantly alter the present ambiance.

3.2 PLAN MODIFICATIONS

The Plan shall be revised prior to its endorsement to include the following additional, corrected, or modified information and documents. Except where otherwise provided, all such information shall be subject to the approval of the Board or its designee. Where approvals are required from persons or agencies other than the Board, the Applicant shall be responsible for providing evidence of such approvals to the Board or its designee.

- 3.2.1 Show all modifications required under section 3.1 (Waivers) above.
- 3.2.2 Submit a letter authorizing Town entry into the Site to complete the street.
- 3.2.3 Submit a document (authorizing vote of trust, corporation or company) confirming Acton Survey & Engineering, Inc. and its employees as representative before the Board.
- 3.2.4 Submit a document confirming that Acton Survey & Engineering, Inc. and its employees are authorized to represent the owners of the Site before the Board.
- 3.2.5 Submit a list of current mortgage holders on the Site.
- 3.2.6 Submit a written owner's agreement to the proposed change in street address numbers for the houses on lots 1 and 2.
- 3.2.7 On the record plan:
 - a) On sheet 3, modify the note for lot 4 indicating a wastewater flow limit of 676 gallons per day, or such other number as the final lot size may prescribe. Add to the note a reference to Table 4.3.7.2 - section 16 of the Bylaw, the formula by which the Bylaw determines the limit, and a statement alerting the reader that a change in lot area will alter the wastewater flow limit.
 - b) On sheet 2 and 3, correct the zoning district boundary line to show the Town-owned parcel with book 7563, page 203 in the Residence 10/8 district.
 - c) Remove from the record plan (and wherever else shown) the driveway easements on parcel B for lot 2, and on lot 4 for lot 3. It seems that they have become obsolete.
 - d) Move or copy note 1 on the cover sheet to the record plan.

- 3.2.8 Show streetlights at the Skyline Drive entrance from Great Road to substitute the existing street light in the same vicinity, at the Quail Ridge Country Club driveway, and at the two speed humps. Add a lighting detail with fixtures conforming to section 10.4.3.2 of the Bylaw.
- 3.2.9 Specify a directional sign for Quail Ridge Country Club at the end of Skyline Drive.
- 3.2.10 Show two temporary benchmarks in locations that will not be disturbed during construction.
- 3.2.11 In note 8 on Plan sheet 8, add "and mowed" after "cleaned".
- 3.2.12 Resize the two retention basins to hold the first inch of runoff (rather than the first 1/2-inch) to comply with section 8.5.2 of the Rules.
- 3.2.13 On sheet 6 of the Plan, remove the extra slanted clay-lined retention basin labels and incorporate the basin reference numbers in the remaining horizontal notes.
- 3.2.14 Delete the seemingly obsolete sediment forebay at DMH #7 (sheet 5), or explain its use.
- 3.2.15 Add notes on Plan sheet 8 (or other suitable location) consistent with sections 9.8.3 and 9.8.4 of the Rules (landscaping of disturbed areas). Specify proposed plant materials consistent with these sections.
- 3.2.16 Add locations of water main services to individual lots and show all details and specifications in accordance with Acton Water District regulations.
- 3.2.17 On the intersection detail on Plan sheet 8:
- a) add the proposed sidewalk;
 - b) add a painted crosswalk (add this on sheet 9, too);
 - c) add a sheet number reference to the traffic island label;
 - d) add a street sign location with label, separate from the stop sign location;
 - e) add the drawing scale;
 - f) relocate the stop line and stop sign to 4 feet behind the crosswalk;
 - g) widen the entrance lane of Skyline Drive to better accommodate SU-30 vehicles entering from Great Road;
 - h) correct the lane width labels to specify their widths from the side of the center island;
 - i) specify a single white lane line (S.W.L.L.) between the two exit lanes;
 - j) specify a double yellow center line (D.Y.C.L.) from the center island back to at least STA 1+00; and
 - k) highlight all notes.
- To the extent that these items are shown on other Plan sheets make the corresponding adjustments there.
- 3.2.18 Add a sidewalk cross section consistent with MassHighway design standards.
- 3.2.19 Consider placing the sidewalk on Great Road north of the intersection behind the existing guardrail using the available 10-foot sidewalk easement there.
- 3.2.20 On the vertical granite curb detail on Plan sheet 8, specify a 6-inch reveal for Great Road and an 8-inch reveal for the Skyline Drive center island.
- 3.2.21 Show a detail for the guardrail terminals consistent with MassHighway design standards.
- 3.2.22 Submit a private way maintenance agreement that will assign the responsibility for snow and ice removal and for general maintenance to the owners of lots and parcels in the subdivision. The maintenance agreement shall include the operation and maintenance plan for the drainage system, as amended herein, set forth on sheet 8 of the Plan.

- 3.2.23 Separately or combined with the maintenance agreement, submit a private way covenant, enforceable by the Town of Acton, declaring that:
- a) Skyline Drive shall remain a private way;
 - b) Skyline Drive shall serve not more than three single-family homes, one commercial kennel, and one golf course/country club;
 - c) The owners of lots on Skyline Drive shall be responsible as set forth in the private way maintenance agreement for any general maintenance and upkeep of Skyline Drive, any associated drainage structures and other utilities, and the removal of snow and ice;
 - d) The owners of lots on Skyline Drive shall not petition the Town to accept Skyline Drive as a public way; and
 - e) The owners of lots on Skyline Drive shall not petition the Town to provide snow and ice removal services or any other maintenance of Skyline Drive.
- 3.2.24 Unless directed otherwise by this decision, modify the definitive plan to comply with all requirements of the Rules, and address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.3 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to the following conditions shall be reason to rescind this subdivision approval pursuant to MGL Ch.41, S.81-W. The Town of Acton may elect to enforce compliance with this decision using any and all powers available to it under the law.

- 3.3.1 Skyline Drive shall remain a private way. It shall not be accepted as a public way, nor shall the Applicant or the owners of lots on Skyline Drive petition the Town to accept it as a public way.
- 3.3.2 Skyline Drive in its entirety shall be maintained by the owners of lots on said street in accordance with the private way maintenance agreement. This shall include the removal of snow and ice. The Applicant and the owners of lots on Skyline Drive shall not petition the Town to provide snow and ice removal services in Skyline Drive or to provide any other maintenance and upkeep of Skyline Drive.
- 3.3.3 The Applicant shall construct a sidewalk on the easterly side of Great Road from the southerly border of the Hillside Condominium property to Main Street as shown on the modified Plan required hereunder. When completed, together with the sidewalk the Applicant must build along the Hillside Condominium frontage, there shall be a continuous sidewalk from Harris Street to Main Street. It is understood that all work within the Great Road right of way is subject to MassHighway approval. Other permits and approvals may be required from other entities with jurisdiction. The Applicant shall make every reasonable effort to obtain the necessary approvals. Final disapproval by any of the entities having jurisdiction, for reasons that the Applicant cannot mitigate, shall relieve the applicant from this obligation, provided appeals for reconsideration have failed. The Board requires that the Applicant instead consider and suggest to the Board substitute sidewalk locations.
- 3.3.4 All MassHighway permits that are necessary for work items on the Plan as approved hereunder shall be submitted to the Acton Engineering Department before work on the item actually begins.
- 3.3.5 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Board may order the immediate cessation of any excavation,

construction and building activities until the conditions that caused the runoff or erosion have been corrected.

- 3.3.6 As required under Massachusetts General Laws, Ch. 60, S. 23, the Plan approved hereunder shall not be recorded with the Middlesex South District Registry of Deeds or the Land Court unless it is accompanied by a municipal lien certificate, indicating that all taxes, assessments, and charges then assessed against the land shown on the Plan have been paid in full. If not paid at the time of endorsement of the Plan, the Board will add a Plan note to remind the Registry of Deeds or the Land Court of this legal requirement.
- 3.3.7 Prior to endorsement of the Plan, the Applicant shall provide the Board with a performance guarantee in accordance with Section 6 of the Rules.
- 3.3.8 No work on the Site shall begin prior to the endorsement and recording of the Plan.
- 3.3.9 All work on the Site shall be conducted in accordance with the Rules, except as waived, and the terms of this approval, and shall conform with and be limited to the improvements shown on the endorsed Plan.
- 3.3.10 The installation of water service lines shall be made in compliance with requirements of the Acton Water Supply District.
- 3.3.11 This Decision, the endorsed Record Plan, the private way maintenance agreement and covenant, and the Restrictive Covenant (as performance guarantee) if any, shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.

3.4 LIMITATIONS

The authority granted to the Applicant under this approval is limited as follows:

- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Rules and other applicable laws and regulations.
- 3.4.2 This subdivision approval applies only to the Site identified in this decision and to the activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This subdivision approval shall expire if not endorsed on the Plan within one year from the date that this decision has been filed with the Town Clerk. It shall also expire, if street construction and installation of services is not completed within eight years from the date that this decision has been filed with the Town Clerk. A request to extend said time limits must be made in writing to the Board at least thirty days before said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to this decision and to require any appropriate modifications of the Plan.
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.


4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 41, S. 81-BB and shall be filed within 20 days after the date of filing this Decision with the Town Clerk.

5 CERTIFICATE OF ACTION

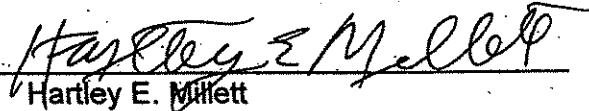
This document stating the Decision of the Board shall serve as the Certificate of the Board's Action to be filed with the Town Clerk pursuant to MGL, Ch. 41, S. 81-U.

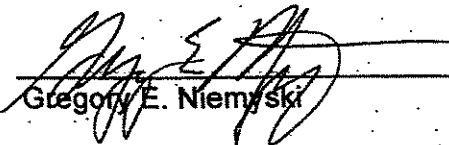
The Town of Acton Planning Board

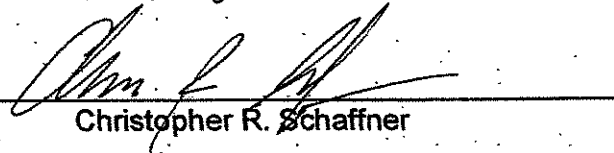

Ken Sghia-Hughes, Chairman


Lauren S. Rosenzweig, Vice Chairman


Edwin F. Pearson, Clerk


Hartley E. Millett


Gregory E. Niemyski

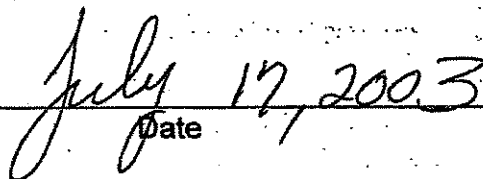

Christopher R. Schaffner

(or)
Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Town Planner
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.


Ed Ellis, Town Clerk


Date July 17, 2003

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owner

Building Commissioner
Engineering Administrator
Conservation Administrator
Police Chief
Historical Commission

Health Director
Municipal Properties Director
Town Manager
Acton Water District
Assistant Assessor

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PRIVATE WAY MAINTENANCE AGREEMENT AND COVENANT

COPY

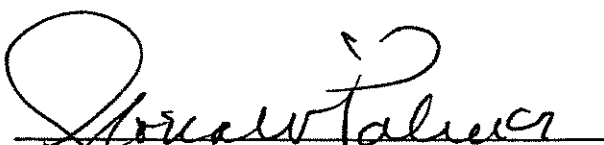
The undersigned, as the owner of all of the land which is the subject of a Decision by the Acton Planning Board, namely, Decision 03-01, Skyline Drive, Definitive Subdivision, January 14, 2003 (the "Decision"), does hereby establish and impose on the land which is the subject of the Decision, in perpetuity, the following conditions:

1. Skyline Drive shall remain a private way.
2. Skyline Drive shall serve not more than three (3) single family homes, one (1) commercial kennel, and one (1) golf course/country club.
3. The owner of Parcel B on Skyline Drive shall be responsible for the general maintenance and upkeep of Skyline Drive, including, but not limited to, all associated drainage structures, and utilities, and for the removal of snow and ice. The maintenance of drainage structures shall comply with the Operation and Maintenance Plan attached hereto as Exhibit A.
4. The cost of maintenance and upkeep of Skyline Drive and related appurtenances shall be borne by the owner of Parcel B as shown on a plan of land entitled "Skyline Drive Definitive Subdivision, Acton, Massachusetts, Lot Layout Plan For: Quail Ridge Country Club, LLC" dated April 14, 2003, last revised June 18, 2003, prepared by Stamski and McNary, Inc., to be recorded herewith.
5. All utilities and services located within Skyline Drive or serving the homes and businesses to be serviced by Skyline Drive shall not be the responsibility of the Town of Acton, but shall be maintained by the owners of the lots serviced by Skyline Drive.
6. The owners of the lots shall not petition the Town of Acton to plow or maintain Skyline Drive or to accept it as a public way.

7. The owners of each of the lots shall have the right and easement to use Skyline Drive, including any related easements, for all purposes for which streets and ways are commonly used in the Town of Acton.

The foregoing covenants and restrictions are intended to run with the land and be in perpetuity.

IN WITNESS WHEREOF, the undersigned, as the owner of all of the land referred to in the Decision, does hereby set her hand and seal this 11th day of July 2003.


Gloria W. Palmer, Trustee
Palmer Family Realty Trust and
Skyline Realty Trust

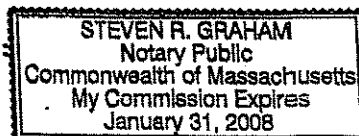
COMMONWEALTH OF MASSACHUSETTS

COUNTY OF MIDDLESEX

July 11, 2003

Then personally appeared before me the above-named Gloria W. Palmer, Trustee as aforesaid and acknowledged the foregoing to be her free act and deed.


Notary Public
My Commission Expires:



Approved and accepted by the Acton Planning Board:



Date: 7/15/03

IN WITNESS WHEREOF, Community National Bank does hereby assent to this Private Way Maintenance Agreement And Covenant and agrees to subordinate its mortgage from Gloria W. Palmer, Trustee of Skyline Realty Trust u/d/t dated December 30, 1991 and recorded with the Middlesex South District Registry of Deeds in Book 22001, Page 282, recorded with said Deeds as Instrument No. 1852 on June 13, 2003 to this Private Way Maintenance Agreement And Covenant.

Community National Bank

By: Daniel L. Heney VP

Print Name: Daniel L. Heney

Print Title: Vice President

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

JULY __, 2003

Then personally appeared before me the above named Daniel L. Heney, being the Vice President of Community National Bank, and acknowledged the foregoing to be the free act and deed of Community National Bank.

Andrew Blood
Notary Public

My Commission Expires: 4-7-06

Exhibit A

1. Gross accumulations of sands and other materials shall be promptly removed from paved surfaces.
2. Landscape litter shall be kept to a minimum.
3. Parking areas should be vacuum swept in early spring.
4. Catch basins should be cleaned in early spring.
5. The depth of materials in catch basin should be measured, every three months, by lowering a rod into the basin. The basins have a four-foot sump and if the rod cannot penetrate in excess of three feet below the water surface, there is over a foot of sediment and the basin should be cleaned.
6. When the rod is removed from the basin, the water line should be observed for the presence of oil or other hydrocarbons. If excessive amounts are found, a licensed carrier shall remove them and the source determined and abated.
7. At the time the catch basins are cleaned, the drain outfalls and basins shall be observed for signs of erosion or sediment and appropriate corrections made.
8. The basin and dikes shall be cleaned and mowed once a year to remove brush and tree growth.

DOCUMENT: 310 # 310DATE: 7/19/07 7-19-0TIME: 8:45**COPY**

RESTRICTIVE COVENANT

In consideration of the approval by the Planning Board of the Town of Acton, Massachusetts (hereinafter referred to as the Board), of a plan of land located in Acton, Middlesex County, Massachusetts entitled "Skyline Drive Definitive Subdivision, Acton, Massachusetts, Lot Layout Plan For: Quail Ridge Country Club, LLC" dated April 14, 2003, last revised June 18, 2003, prepared by Stamski and McNary, Inc. (hereinafter referred to as the "Plan"), to be recorded with the Middlesex South District Registry of Deeds herewith and the waiver by the Board of a bond or other security for the construction of the ways and the installation of certain services shown on said plan, in compliance with the Town of Acton, Massachusetts (the "Town") Subdivision Rules and Regulations, last amended October 15, 2001:

Quail Ridge Country Club, LLC, a Massachusetts Limited Liability Company (the "Developer"), having its usual place of business at 178 Great Road, Acton, Massachusetts, its successors and assigns, hereby covenant and agree with the Board and the Town as follows:

1. The undersigned Developer is the owner in fee simple absolute of all the land shown on the Plan and that there are no mortgages of record or otherwise on any of said land, except for those described below, and that the present holders of said mortgages have assented to this covenant prior to its execution by the Developer.
- 2.. The Developer shall not sell or convey any lot on the Plan or erect or place any permanent building on any land until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the following:
 - a) The Subdivision Control Law and the Acton Planning Board's Rules and Regulations governing this Subdivision.
 - b) The Certificate of Approval (Decision 03-01) and the conditions of approval specified therein, issued by the Planning Board, dated January 14, 2003.
 - c) The definitive plan as approved and as qualified by the Certificate of Approval.
 - d) Other document(s), namely: None

3. However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or built until the ways and services have been provided to serve such lot.
4. The Developer will expeditiously and diligently proceed to construct the ways shown on the Plan and in the event that the Board concludes, in its sole discretion, that the Developer is not so constructing such ways, the Developer shall provide additional security other than this covenant sufficient in the Board's opinion for the construction and completion of such ways and services as shown on the Plan or for a portion thereof. Such additional securities shall comply with the requirements of the Town's Subdivision Rules and Regulations, provided, however, that the Board shall determine the date by which the work, for which additional security must be posted, shall be completed.
5. This covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the Developer and shall constitute a covenant running with the land shown on the Plan and shall operate as restrictions upon the land.
6. Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the Plan or of all lots not previously released by the Planning Board.
7. Particular lots on the Plan shall be released from this covenant upon the recording of a certificate of performance executed by the Planning Board and enumerating the specific lots to be released.
8. The Developer agrees to record this covenant with the Southern Middlesex County Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the Plan as approved.
9. A deed of any lot in violation of the covenant shall be voidable by the grantee prior to the release of the covenant; but not later than three (3) years from the date of such deed.
10. This covenant shall be executed before endorsement of the approval of the Plan by the Planning Board and shall take effect upon such endorsement.
11. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or

before June 30, 2005 the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be approved by the Planning Board, shall constitute reason for rescission by the Board of the approval of the Plan.

12. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods described in M.G.L., Chapter 41, Section 81-U, as long as such security is sufficient in the opinion of the Planning Board to secure performance of the construction and installation.

13. The land shown on the Plan is encumbered by and subject to the following mortgages which, however, are subordinated to this covenant:

- a) Lot 1 on the Plan is subject to a mortgage to Community National Bank, recorded with said Deeds in as Instrument 1825 on June 13, 2003.

IN WITNESS WHEREOF, the Developer(s) has executed this Restrictive Covenant under seal as of the 11th day of July, 2003.

Palmer Family Realty Trust

By: Gloria W. Palmer
Gloria W. Palmer, Trustee
Duly Authorized

Quail Ridge Country Club, LLC

By: Ronald B. Peabody
Ronald B. Peabody, Manager
Duly Authorized

Skyline Realty Trust

By: Gloria W. Palmer
Gloria W. Palmer, Trustee
Duly Authorized

COMMONWEALTH OF MASSACHUSETTS

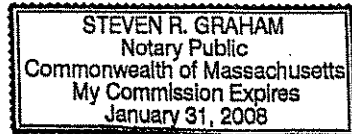
COUNTY OF MIDDLESEX

July 11, 2003

Then personally appeared before me the above-named Ronald B. Peabody, Manager and acknowledged the foregoing to be the free act and deed of Quail Ridge Country Club, LLC.

Steven R. Graham
Notary Public

My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

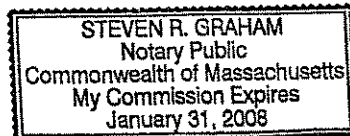
MIDDLESEX, SS.

July 11, 2003

Then personally appeared before me the above named Gloria W. Palmer, Trustee of the Palmer Family Realty Trust and Trustee of the Skyline Realty Trust and acknowledged the foregoing to be her free act and deed.

Steven R. Graham
Notary Public

My Commission Expires:



Approved and accepted by the Acton Planning Board:

Roland Barth

Date: 7/15/03

IN WITNESS WHEREOF, Community National Bank does hereby assent to this Covenant and agrees to subordinate its mortgage from Gloria W. Palmer, Trustee of Skyline Realty Trust u/d/t dated December 30, 1991 and recorded with the Middlesex South District Registry of Deeds in Book 22001, Page 282, recorded with said Deeds as Instrument No. 1852 on June 13, 2003 to this Covenant.

Community National Bank

By: Daniel L. Heney VP

Print Name: Daniel L. Heney
Print Title: Vice President

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

JULY 11, 2003

Then personally appeared before me the above named Daniel L. Heney, being the Vice President of Community National Bank, and acknowledged the foregoing to be the free act and deed of Community National Bank.

Andrea Blood
Notary Public

My Commission Expires: 4-7-06